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NOMINATIONS—JULY

HEARINGS

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

FIRST SESSION

ON

JULY 7, 1987

T. ALLAN McARTOR, TO BE ADMINISTRATOR, FEDERAL AVIATION ADMINISTRATION

JULY 8, 1987

GERALD J. McKIERNAN, TO BE ASSISTANT SECRETARY FOR CONGRESSIONAL AND INTERGOVERNMENTAL AFFAIRS, DEPARTMENT OF COMMERCE; BERNARD WAYNE VANCE, TO BE GENERAL COUNSEL; AND DALE A. PETROSKEY, TO BE ASSISTANT SECRETARY FOR PUBLIC AFFAIRS, DEPARTMENT OF TRANSPORTATION

JULY 22, 1987

ROBERT D. ORR; CHARLES LUNA; AND DARRELL M. TRENT; TO BE MEMBERS OF THE BOARD OF DIRECTORS, NATIONAL RAILROAD PASSENGER CORPORATION

JULY 29, 1987

JACK EDWARDS, TO BE A MEMBER OF THE BOARD OF DIRECTORS, METROPOLITAN WASHINGTON AIRPORTS AUTHORITY

Printed for the use of the
Committee on Commerce, Science, and Transportation

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T. ALLAN McARTOR, TO BE ADMINISTRATOR, FEDERAL AVIATION ADMINISTRATION

TUESDAY, JULY 7, 1987

U.S. Senate,
Committee on Commerce, Science, and Transportation,
Washington, DC.

The committee met, pursuant to notice, at 2:07 p.m., in room SR-253, Russell Senate Office Building, Hon. Wendell H. Ford, presiding.

Staff members assigned to this hearing: Steve Palmer, professional staff member; Harris Livingstain, staff counsel; and Macky Ayers, minority professional staff member.

OPENING STATEMENT BY SENATOR FORD

Senator Ford. We are here today to consider the nomination of Allan McArtor to become Administrator of the Federal Aviation Administration. Mr. McArtor has been nominated to replace Donald Engen who held the reigns of the FAA at one of the most critical times and did so with exceptional ability.

This hearing is likely to be one of the most important that the aviation subcommittee will hold for some time to come. The public confidence in our air transportation system, in particular with respect to the margin of safety, has fallen significantly in recent years.

As the person nominated to head the FAA, the lead Federal agency in aviation safety, Mr. McArtor faces a significant challenge in restoring public confidence to our aviation system. The moment he walks through the door at 800 Independence Avenue the entire world will expect the next Administrator to have the answers to every issue related to aviation safety. It is therefore imperative that we build a record on which that person will stand and to which the public can hold him during his tenure.

I am pleased that Mr. McArtor comes before us with a strong background in aviation. He is a graduate of the United States Air Force Academy. He served with the Thunderbird Precision Aerial Team and flew numerous combat missions in Vietnam, and he served nearly eight years as a senior executive with Federal Express.

There are many issues that I look forward to hearing from Mr. McArtor today, including his views on the management of a large diverse organization such as the FAA, the need for restrictions on flight operations, and the appropriate role of the Federal Government in developing our airport and airway systems.

Also, because of his close affiliation with one of the largest air cargo carriers in the country, I intend to insure that if Mr. McArtor is confirmed, a conflict with his former employer does not occur.

Do any of the other Senators on the Committee wish to make an opening statement before we recognize the two Senators from Tennessee to introduce Mr. McArtor?

Senator Stevens, do you?

Senator STEVENS. No.

Senator FORD. Well with that, Senator Kassebaum will be along shortly. She has been detained. And so, we will recognize Senator Sasser for the introduction of the nominee. Senator Sasser?

STATEMENT OF HON. JAMES R. SASSER, U.S. SENATOR FROM TENNESSEE

Senator SASSER. Mr. Chairman, I thank you very much, and I am very pleased to be here today in company with my distinguished colleague from Tennessee, Senator Gore, who I know will have something to say about the nominee in just a moment.

Mr. Chairman, I have had a number of private conversations with you about the problems in the airline industry, and I might repeat some of the things publicly that I have indicated to you privately on occasion.

But I will say today that Mr. McArtor comes to the Federal Aviation Administration at a time of perhaps unprecedented problems in the aviation industry. The skies are crowded. Flights are overbooked. Flights commonly run late. The air traffic control system is stretched to the limit. Indeed, some think it may be stretched beyond the limit.

In addition, deregulation has completely changed the rules of the game as far as the aviation industry is concerned. And the increased competition has meant price wars and cost-cutting which all too often I fear—and I have expressed this fear privately to the nominee here today—have resulted in decreased maintenance on the part of the airlines, and I fear also decreased safety.

So, the new Administrator or the next Administrator of the Federal Aviation Administration will face very great challenges indeed. But I think we are most fortunate that the administration has proposed and the President has proposed the name of Allan McArtor to be the next Administrator of the Federal Aviation Administration. He is extraordinarily well qualified I think to meet the challenges ahead.

You, Mr. Chairman, have outlined his biographical data to a large extent. I will say that after graduating from the Air Force Academy, he served as a fighter pilot in Vietnam. He was decorated there many times, including decorations as high as the Silver Star. And he comes from a job as a fighter pilot that demanded courage and judgment on a daily basis, and I expect he is going to have that same demand made on him at the Federal Aviation Administration.

Mr. McArtor, Allan McArtor, served in the Air Force Thunderbird Precision Team, as well as serving as a fighter pilot. He has a graduate degree, a masters degree, from the University of Arizona, and he has maintained very high standards in his civilian career.

He comes from a firm that we are very proud of in our State of Tennessee, and that is Federal Express. He joined that firm in 1979, and has held several positions in the aviation and advanced technology divisions of Federal Express, including vice president of systems operations, vice president for advanced projects and research, vice president of the satellite systems division.

He is currently the senior vice president for telecommunication, and he comes to us, Mr. Chairman, if he is confirmed, as a man who is making a very substantial financial sacrifice to serve in the Federal Government.

He comes I think from a great reservoir of civilian talent at Federal Express, and I am hopeful at some time in some future administration that perhaps other distinguished individuals in that firm will be designated to serve in government agencies, most specifically the Department of Defense.

So, Mr. Chairman, I want to commend Allan McArtor most highly to this committee, and I am sure that you and the ranking member will find that he will bring very high standards, indeed, to the Federal Aviation Administration. I thank you for allowing me to appear here today and make this introduction of Mr. McArtor.

Again, it is a pleasure to see my colleague from Tennessee, Senator Gore, here who has such distinguished service on this committee in times past.

Senator FORD. Thank you, Senator. We will recognize your colleague then, Senator Gore, for additional remarks.

STATEMENT OF HON. ALBERT GORE, JR., U.S. SENATOR FROM TENNESSEE

Senator GORE. Thank you very much, Mr. Chairman.

Although I'm a member of the full committee, I am not a member of Aviation Subcommittee. So, I appreciate your courtesy in allowing me to participate here.

I would mainly echo the comments of my senior colleague, but I would like to express personal pride and pleasure in having a fellow Tennessean nominated for this important position. Allan McArtor as a person is just a terrific individual, as members of this committee and the folks down at the FAA will soon find out.

He has, as Senator Sasser noted, a wide variety of experiences that will all be relevant to his new duties at the FAA. He, as mentioned, is senior vice president for telecommunications, but has had executive positions in the aviation and advanced technology divisions of Federal Express as well.

His career in the Air Force has been summarized. He was decorated for heroism in Vietnam with both a Silver Star and Distinguished Flying Cross. He was a pilot with the Air Force Thunderbirds for two years. And of course, only the best of the best are selected for the Thunderbirds.

What is not in the bio that he submitted to the committee, but something well-known to me, is that he was on the command leadership track at the Air Force, and they tried very hard to keep him there. But circumstances intervened in persuading him at a critical time to be with his family and to take a different path in life, a decision which all who know him admired greatly.

In any event he has crucial administrative experience, crucial field experience. He knows the technology. He knows the systems. He knows the people.

Again, as Senator Sasser mentioned, we are at a critical time where the FAA is concerned. The flying public is increasingly apprehensive these days about the crowded skies, the lengthy delays, the inconvenience that passengers face, the risks that passengers perceive that they face. It is a time for strong leadership at the FAA.

I have discussed with Mr. McArtor some issues and concerns which I think need to be addressed. I know the subcommittee will take up many, many issues and concerns with him during these proceedings. But I just want to give my personal endorsement to Mr. McArtor and say to my colleagues on both sides of the aisle I don't think the President could have possibly found a more qualified person for this position. I am just delighted to have his name sent up here. I unhesitatingly endorse this nomination and wish you well.

Thank you.

Senator **Ford**. Thank you, Senator Gore.

We are honored with the attendance of the Chairman of the full committee, Senator Hollings. Senator Hollings, do you have any statement you would like to make before we question to the nominee?

OPENING STATEMENT BY THE CHAIRMAN

The **Chairman**. Thank you, Mr. Chairman. I have had the privilege of meeting and chatting with our nominee, and like the others, and as Senator Gore has just emphasized, I think it his an outstanding nomination. The only one hesitation I have is that the new Administrator may be over-confident. I wish he would travel with me back and forth to South Carolina on the weekends.

Senator **Ford**. He could have been with me this morning.

The **Chairman**. I was held up 50 minutes coming in here again, but I went out Friday afternoon, Mr. McArtor, and there we were. I thought our wait was pretty bad until the New York crowd came in, and they told them—as they sat at the airport for 3 hours and 30 minutes—that you couldn't get into Washington. And of course, I had been watching for 4 hours the traffic move in and out, going to Washington. So, that was totally wrong.

What you're seeing—and it was reported in the *U.S. News & World Report* that in the last five years, air traffic has increased 38 percent. Numbers of air traffic controllers have decreased 25 percent. As a result, you have got a crisis on your hands. The airlines are finding every trick in the book of moving away from the gate to say they left on time, but just didn't get the clearance and blaming it on the controllers and those kind of things. All the scheduling, every gimmick in the book, and it is all infringing upon basic safety. And that is really what worries me.

We must address that first—take care of the safety concerns. Then we can move on to the inconvenience of the passengers and the luggage and everything else. There's an assumption of risk to really check anything. You might as well have taken the train.

Everybody knows what I'm speaking about. And yet, you are saying don't worry about it. You can take care of it. I hope you are just as smiling and young looking next year this time.

Senator FORD. Senator McCain, do you have an opening statement?

OPENING STATEMENT BY SENATOR McCAIN

Senator MCCAIN. Very briefly. I also had the opportunity of visiting with Mr. McArtor, and first I was inclined to disqualify him due to the fact that he went to the United States Air Force Academy. But I see you, in some way, made amends by attending Arizona State University.

So, that brings us back on an even keel.

In questioning, I do want to address parts of the problem that our distinguished Chairman discussed, and that is, the issue of allocating services at high density airports. I think it is crucial, and I don't think that the current system gives us the confidence that it will work to foster new entrants or more competition, and I don't think the answer is more airports either. I hope that in the course of this hearing we will be able to address that.

In a serious note, I also would like to say, Mr. Chairman, that I think Mr. McArtor is well qualified. I think he will do an outstanding job at a very difficult time in the history of aviation in this country. And I look forward to working with him in the years ahead.

Thank you, Mr. Chairman.

Senator FORD. Thank you, Senator. We will be here a long time today. We just have one witness and a lot of Senators.

Senator Exon?

OPENING STATEMENT BY SENATOR EXON

Senator EXON. Mr. Chairman, thank you very much.

Mr. McArtor, I want to welcome you here today. I don't think the hearing is going to drag out for a long time. I appreciate your coming.

There are many problems, and I am convinced that you are going right in the middle of them. This committee will continue its oversight as never before. And we want to cooperate with you.

But in the past I think most of the members honestly feel that there has been some kind of a cover-up or improper excuses for what is going on in the airline industry today. Safety is number one. It has always been the number one concern of this subcommittee and our Commerce Committee as a whole.

I believe that the public is being fooled by the airlines over and over and over again. It seems like every third flight that I take from here to Chicago—and I travel that route quite a little, and it happened this past weekend. We are halfway to Chicago and the pilot comes on the system and says we have been going fine, but there is a power outage at the Indianapolis center. Now, I can't imagine that the Indianapolis center, the Cleveland center, and the Chicago center and all the other centers don't have backup power.

I believe that the public is not being told the truth. They are being lied to time and time again as they were as just given evidence by Chairman of the committee regarding what he heard at the airport the other day.

I think the American people are willing to put up with some inconvenience. I don't think they are willing to put up with less than the best air traffic safety that we can provide them with. But sooner or later they are going to be very upset about the fact that their airplanes are not leaving on time and they are not leaving on time simply because the airlines are scheduling flights in and out of several major centers when the airlines themselves know that there is no way they can meet that schedule.

I know that you come out of a very competitive business that relied on airplanes. And if you told your customers that that package was going to be delivered the next day and it wasn't delivered until the day following that, you wouldn't be here today. You wouldn't be sitting there because you would have been a failure.

Right now the airlines are taking advantage, I suggest, of the public's belief in the merits of deregulation, which has allowed more people than ever to fly. That is good. But safety is number one, and convenience and understanding that the airlines have not taken a responsible position on in the view of this Senator.

I asked in a recent hearing whether or not the airlines ever cancelled a scheduled flight because they didn't have an adequate load. I was assured that they do not. I think that is not the truth, Mr. McArtor, and what I would like to have you do is to shape up these airlines and recognize that while we are operating in a deregulated atmosphere there is always some action that the Congress could take if the industry does not solve these problems that we and you are going to be wrestling with daily in the near future.

We will be anxious to work with you on these issues. We hope that we will not be working at cross-purposes, but I assure you that this Senator will be on top of this matter, as we are not satisfied with the current situation.

Senator **Ford**. Mr. McArtor, with that we welcome you.

We look forward today to a give and take. I am sure you understand from our previous conversations and talking to other Senators that today we begin with your base of knowledge, which hopefully will get better with time. So, we welcome you and any opening statement that you might have, and then we will go to questions.

[The biographical sketch follows:]

A BIOGRAPHICAL DATA

1. Name: McArtor (Last) Trusten (First) Allan (Other)

Address: 5896 Garden River Cove (Current residence) 2005 Corporate Avenue (Business)

Memphis, Tennessee 38119 Memphis, Tennessee 38132

2. Position to which nominated: Administrator FAA Date of nomination: 6-5-87

3. Date of birth: 7 (month) 3 (day) 1942 (year) Place of birth: St. Louis, MO USA

4. Marital status: Married Full name of Spouse: Grace Whiting Mitchell McArtor

5. Names and ages of children:
Andrew Allan McArtor (19)
Scott David McArtor (17)

6. Education:

Institution	Dates attended	Degrees received	Dates of degrees
Webster Groves H.S.	1957-1960	H.S.	1960
U.S.A.F. Academy	1960-1964	BSE	1964
Arizona State Univ.	1969-1971	MSE	1971

7. **Employment record:** **List all positions held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.**

FROM	TO	NAME OF EMPLOYER	ADDRESS	TYPE OF WORK
SEP 79	PRESENT	Federal Express Corp. Frederick W. Smith & James L. Barksdale	2005 Corp. Ave Memphis, TN 38132	Senior Vice President
MAY 74	SEP 79*	Delta International Inc. Private Merchant Bankers	889 Ridge Lake Blvd. Memphis, TN 38119	Officer, Director
MAY 74	SEP 79*	Tennessee Investment Properties Real Estate Investments	889 Ridge Lake Blvd. Memphis, TN 38119	Officer, Director

*These companies were founded and operated in partnership with brother, John W. McArtor. Companies are still active under John W. McArtor. T. Allan McArtor has no continuing interest.

FROM	TO	NAME OF EMPLOYER	ADDRESS	TYPE OF WORK
JUN 64	MAY 74	Regular U.S. Air Force Officer	(Type of Work) Fighter Interceptor Pilot Tactical Fighter Pilot Academic instructor at USAFA Air Demonstration Pilot (Thunderbirds) Combat Fighter Pilot	
JUN 60	JUN 64	Cadet: U.S.A.F. Academy	U.S.A.F. Academy CO 80840	Cadet

8. Government experience: **List any experience in or direct association with Federal, State, or Local governments including any advisory, consultative, honorary or other part-time service or positions.**

Member and current Chairman of the Commercial Space Transportation Advisory Committee to the Dept. of Transportation. COMSTAC is comprised of 25 space industry professionals.

9. Political affiliations activities: **List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last 10 years.**

I am registered as a Republican and have voted in several different states of residence. I have never been a candidate for public office nor have I actively participated as part of a campaign staff in state or national elections. I have made political contributions primarily through payroll deduction contributions to the Federal Express Political Action Committee (FEPAC). My annual participation in FEPAC has ranged from $120 to $600 per year (currently). In addition, I have contributed to several local and state campaigns and candidates (Republican and Democrat). I have only supported Republican presidential candidates and contributed to only the Republican National Committee. Exact records going back to 10 years are not complete, nevertheless I rarely contributed more than $25 or $50 to any single candidate. Some contributions I was able to identify include: $325 to the Howard Baker Committee '85; $200 to the Republican National Committee 3/87 and 5/87; $900 to Senator Jim Sasser '82; $150 to Governor Lamar Alexander '80 and '82; $35 to "Campaign America" 3/87; $100 to Jane Eskind (Tenn. Gov.) '86; $10 to Mike Cody Fund (Memphis); and $500 to fund raiser for a local candidate, John Robertson, hosted by close business associates.

STATEMENT OF T. ALLAN McARTOR

Mr. McArtor. Mr. Chairman, I am certainly honored to have been nominated by the President to serve as the Administrator of the Federal Aviation Administration. I am honored to appear before this committee today. It is a special privilege for me to have my home state Senators of Tennessee, Senator Jim Sasser and Senator Albert Gore, Jr., to have provided an introduction.

I look forward to this challenging opportunity, if confirmed, and I welcome any questions that you and the committee have of me at this time.

Senator Ford. Well, if that is any indication, your answers are going to be brief also.

We welcome you.

We will get down to business then, Mr. McArtor. What qualifications do you believe you bring to the job of Administrator of the FAA that will help insure your success, as well as the success of the agency?

Mr. McArtor. Well, the job of the Administrator, as I have been able to observe, is a terribly complex one and requires a variety of different leadership and management skills. I think that I have been fortunate in my career to have the experience in both highly technical areas, as well as aviation issues. I am an aviator. I have participated as a senior executive in aviation industry. I have been a manager of complex technical systems. I understand the disciplines necessary for highly integrated technical systems.

I have also participated in very successful people programs, the ability to lead and to manage and to reach consensus and compromise. I am a hands-on manager. I get involved. I stay committed. I think that my history has shown that I have been assigned to some very difficult tasks and challenges, and have done well in managing them. I am a firm believer in management by walking around and thorough analysis of systems. I do embrace a systems approach to things.

In short, I think that I have both the personal commitment and the courage and the knowledge and skills and ability to be an effective Administrator of the FAA.

Senator Ford. In recent months there has been an increasing public perception that the FAA is not in control when it comes to aviation safety. If confirmed as Administrator, what will you do to insure that public confidence in the FAA and the air transportation system is restored?

Mr. McArtor. I think it is important to be a better communicator with the public and the industry as a whole. The FAA by and large does a rather good job of its day-to-day operational mission of controlling aircraft and providing air worthiness standards. That mission is not well understood, and the successes of the FAA are not that well understood. I think perhaps a better education and communications program would go along way toward doing that.

But public perceptions are formed on both real performance and perceived performances. The public confidence will be restored in the FAA when they are convinced that the FAA is doing everything possible to insure public safety and airline efficiency. It would be my job as Administrator, if confirmed, to make sure that the FAA is, in fact, doing everything possible.

I think it is also important though that the public understand the difference between service issues and safety issues. I will not argue that I think airline service is rather poor, certainly not the quality of service that it should be for the traveling passenger. And since most of the public thinks that the FAA is accountable for everything that has to do with aviation and airplanes, even though they may be consumer issues, I intend to be very much involved in establishing solutions to consumer problems even though they may not be specifically under the FAA's charge.

Senator FORD. With that statement, Mr. McArtor, what will your priorities be? Can you name one, two, three, four, five for us today, or one, two, three, or however?

Mr. MCARTOR. Well, I think clearly safety is the first priority, and I say so though not because it is trendy or that that is clearly the mission of the first priority of the FAA. But safety is the premise on which any other priority must be built. There is a presumption of safety in every business plan that has to do with air commerce and air travel. Safety is job one at the Federal Aviation Administration. It is clearly my first priority.

Second to that then would follow very closely the continued modernization of both equipment, procedures, concepts, and management techniques within the Federal Aviation Administration air traffic control system.

And third as a priority would be a better working relationship with the Department of Transportation, the Congress and the industry.

Senator FORD. One of the items I think that you and I talked about we felt very important prior to your confirmation is to dispel any possibility of conflict of interest. I have some questions I would like to ask you now as it relates to that. Hopefully that will remove any problems that might have existed or will exist in the future.

What steps have you taken or are you willing to take to avoid any conflict or appearance of conflict between your new position and your prior employment relationship with Federal Express?

Mr. MCARTOR. Mr. Chairman, I am very mindful of any perception of possible conflict between myself and my previous employer, Federal Express. I was mindful of this perception even on the first day that my name was first mentioned as a possible candidate for this position.

The chief executive officer and myself thought that it was in the best interests for me to separate myself from the strategic planning and the day-to-day operations of Federal Express, and I did so even to the extent of setting up a separate office off-site from which to work during this transition period.

I am very, very mindful of potential conflicts, and if confirmed as Administrator, I will recuse myself from those areas and those rulemakings specifically addressed toward Federal Express, and would ask my counsel, as well as counsel at the Department of Transportation, to help me establish the appropriate filters with which I would be separated from those specific decisions that would affect the profitability or the air worthiness certificates of the Federal Express Corporation.

Senator FORD. Is there any agreement or understanding, formal or informal, with anyone at Federal Express or anyone acting on its behalf in regard to your possible future affiliation with Federal Express? And have you had any discussions with anyone at Federal Express or anyone acting on its behalf regarding any such future affiliation?

Mr. MCARTOR. Mr. Chairman, there have been no discussions nor commitments nor implied commitments with Federal Express. In fact, we have specifically avoided any such topics even in casual conversations with friends. There are no such agreements.

Senator FORD. Fine.

What are the terms and arrangements in regard to your severance from Federal Express? Did you receive a severance payment? Did you receive a bonus? If so, how was either calculated and how does that compare with other severance arrangements or bonuses of other former employees of Federal Express with the same or similar service to the company?

Mr. MCARTOR. I will resign from Federal Express prior to being sworn in as Administrator of the Federal Aviation Administration, if confirmed. And upon my separation from Federal Express, as is typical with the separation of other senior officers from the company, I will be given a severance pay which is equal to a year's salary plus some estimated bonus. We have an annual bonus program. This severance pay is traditional with other senior vice presidents having departed the company, and is in consideration for work done previously.

Now, in a different structure though from other senior executives that have left, normally a senior executive would be retained in somewhat of a consulting status with Federal Express. Naturally that would not be possible with my departure from the company.

But I will receive a severance payment similar to or equal to the same types of arrangements as other departing senior executives.

Senator FORD. Have you to date reviewed or been briefed regarding any matters that relate directly to Federal Express or to any of its competitors or to any regulation affecting the small package express industry in general? If so, have you formed or expressed any opinion as to these items?

Mr. MCARTOR. No, sir. I have received no briefings as part of my briefings that I have participated in to date with the Federal Aviation Administration that are specifically addressed toward the express package business or even the air freight business. The discussions that I have had have been rather general in nature with more pressing issues before the aviation community than those. So, no, I have not received any briefings, and I have not reached any conclusions regarding any of the issues.

Senator FORD. Mr. McArtor, are you willing to commit to the committee that you will recuse yourself from any matter in which Federal Express has a direct interest or which directly affects a direct competitor of Federal Express? Are you willing to commit that you will recuse yourself for a period of at least two years from any issue dealing with the regulation of the small package express industry?

Mr. **McArtor**. Yes, sir. I believe it is appropriate to make that commitment, and I will recuse myself from those specific rulemakings.

Senator **Ford**. One final question, then we will have covered this pretty well I think.

Have you formulated a view regarding the possible revision of Federal air regulations, including the proposed part 119 dealing with cargo air operations for compensation or hire? Do you feel this is something in which you should be involved given your past affiliation with Federal Express?

Mr. **McArtor**. To be quite honest with you, sir, I have not been briefed on the specifics of the question of which you speak. I don't feel that I am qualified at this time to give you a very detailed answer to that. Once familiar with that issue, I would be glad to get back to you with specifics.

Senator **Ford**. Fine. Senator Stevens?

Senator **Stevens**. Mr. McArtor, I, too, welcome you. I note you were Top Gun at one time, so we are most pleased to see that you are going to take the lead of this agency.

I think I should state and make sure everyone understands, you are not going to become the Chairman of the Civil Aeronautics Board. We did away with that.

You have a lot of problems, however, coming your way because of the lack of some sort of oversight of this airline industry.

I, too, have just returned from a series of trips to my home in Alaska, and while I'll not mention the company, I was appalled at one stop we had where the plane was delayed and delayed, and delayed, first on a report that we had a tire that was bad, and then that we had too much fuel, and then that we had to add more fuel. I finally asked the pilot myself what was going on. He said he was waiting for the computer to tell him where to go next. And I said, well, you are scheduled to go directly to Anchorage. Where do you think you are going to go? Well, it was one of those things where he ended up by going somewhere else.

After I arrived in Anchorage, I looked up that schedule and found out that there was a flight from the intermediate destination that was cancelled, and we stopped through there to pick up the passengers, which to me was a direct violation of any kind of operation from a safety point of view and from integration with your operations at FAA.

There is no way that we can keep track of the airline system if computers in some distant town are going to tell a plane to stop by an intermediate stop not scheduled to pick up passengers so that that company can integrate the flights for economic reasons. That is what is screwing up our schedules, I think, coming in and out of these airports where we have so much difficulty and so much delay.

Now, it is going to be your responsibility to find some way to manage this scheduling of flights in and out of these major hubs, as I understand it. And your predecessor told us that he was going to arrange some form of scheduling and limitation of the number of flights into particular hubs. Are you familiar with that plan?

Mr. **McArtor**. Yes, sir. I am familiar with the potential of restricting the numbers of flights in and out of hub cities.

Senator **Stevens**. Well, I'm a little worried about that plan and expressed that reservation when the Administrator was here because of the impact it makes upon those of us who live a far distance and travel the transcontinental routes and find we are not being able to take off on flights, say, from Seattle to Chicago because someone from Kansas City is going to get into Chicago first. And thereby, in this reshuffling of slots going into Chicago, there is no consideration given to the distance flown for these planes and what the impact is on the traveling public when there is an overall limitation on the number of slots that are going into a place like Chicago.

Do you know? Have they made any computer study or any kind of study of the impact of this new program on through-flights?

Mr. **McArtor**. Senator, I can't say what impact has been analyzed up to this time. I haven't been briefed on that.

It was my meeting with you, as a matter of fact, Senator, that first called my attention to the potential impact of this phenomenon. And as I told you then, I am particularly interested in investigating this personally and to try to assess the impact of long distance through-put flights or through-flights on the phenomenon that has occurred around congested hubs. I can't tell you what work has been done to date on that other than I intend to look into it.

Senator **Stevens**. I have no problem with people flying from Louisville or Omaha into Chicago, but the problem is they can make two or three flights a day.

Mr. **McArtor**. No, I understand. I understand.

Senator **Stevens**. We get one shot a day into Chicago, maybe two, and if we are held up in Anchorage or Seattle, then we miss the next connection and we are overnight in Chicago or Seattle, whereas they are back and forth twice a day, three times a day on these short hops. If they get the same kind of allocation on the slots going into Chicago, then transcontinental travel through hubs is going to be severely reduced in my judgment.

Mr. **McArtor**. I think your point is worthy of assessment, Senator, and I certainly will take a look at that.

Senator **Stevens**. I also mentioned to you when we visited that I have introduced, along with Senator Inouye, S. 1159, which seeks to set up a corporation similar to the Postal Service corporation to get away from the problem that we perceive, and that is the traveling public, the commercial world, is paying into a trust fund, and that trust fund is not released for expenditures required by the air traffic control system, particularly the safety aspects, because of budgetary considerations. That money, since it goes into the Treasury, is suddenly on budget, and we can't get it out because of budgetary limitations.

Those same limitations do not apply to the Postal Service. The money that the rate payers pay into the Postal Service the Postal Service is free to spend without regard to budget limitations. As a matter of fact, they can go out and borrow money and spend more than they have got coming in, in order to modernize, and they have been able to modernize.

This air safety system has not been able to modernize because of the budgetary limitations on expenditures of monies that were paid into the trust fund. We call them taxes, but they are really user fees from those who are using the system in order to modernize.

Now, I would urge you to study that approach somehow or other. Either we have to convince our friends on the Budget Committee to put this trust fund off budget or we have to take it off budget. And Senator Inouye and I, representing the two offshore states which I think are most affected by the limitations on these expenditures, believe we ought to set up a corporation similar to the Postal Service.

Have you had a chance to look at that since we visited?

Mr. McArtor. Senator, I am familiar with the proposals, the various proposals actually, of separating the FAA as a separate corporation and other organizational restructurings of the FAA. And you are correct. Underlying most of those proposals is the concern for reasonable access to the aviation trust fund monies, as well as trying to streamline the procurement processes and the management flexibilities of the FAA in managing its personnel.

But I haven't yet been convinced that these structural changes in organization bring a value added. It would seem to me that within the current institutional structure that were there the commitment to do so, these three advantages could be obtained under the current organizational structure.

However, I know that the Aviation Subcommittee has hearings on this specific issue later this month. The Byrd Commission is tasked with investigating this very issue. And I will look forward to the findings of those groups.

Senator Stevens. Fine. I look forward to your participation. I just can't believe the traveling public ought to pay more into the fund than we can get out to maintain the system. Yet, that is what is going on, and we have got a net balance there that ought to be available in my judgment.

Lastly, I do represent Alaska. We have more pilots per capita than anywhere in the country. We use the aviation system more. We have more personnel per capita in Alaska than in any other state of the Union. We are quite worried about the problem of maintaining safety in view of the limitations on the expenditure of the trust fund. And I want to urge you to come up to my state to study it and see the problems that are developing. My friends here from other states, if they can't catch an airplane, they catch a train or a bus or a boat or maybe drive. That is totally impossible in terms of my state. In 95 percent of the inter-city movements you cannot travel except by air. We have an absolute dependence upon your system.

I was one of the last to be converted to deregulation. As a matter of fact, if I have made an error—and I think I have made many since I have been here. But if I made an error on this committee, it was, I think, changing to support deregulation because I now think that the airline industry is being run totally by computers for profit and we are not seeing the response to consumer needs, nor are we seeing any adherence to schedules on the point of reliability.

I have got to tell you I go home, I think, as much as anyone in this Senate and travel further than any member of the Senate in my swings around my state. And the problems of scheduling now, even just to come back from my home to Washington, as compared to the period prior to deregulation are so great that it now takes, sometimes, two days to travel home where I used to be able to go through some way in one day. And I am getting more and more complaints from the traveling public going up to my state as tourists about being stranded in this place or that place on the way and finding all of their schedules just completely knocked out.

Now, this is not your problem, as I said in the beginning. It's the lack of the CAB, lack of a regulatory capability. But I noticed you said you were going to address yourself to trying to see what powers you will have as Administrator to answer some of these consumer needs. I think you have them in terms of approving schedules for these hubs.

If you go through a hub today, you will find that most of the planes are landing at the same time and they are taking off at the same time. And if you miss one flight, you are at the hub all night. Now, I think that is wrong. I think that somehow or other we have got to force these people to stagger their flights so that there is a possibility of a second flight out of the hub to the destination in the event there is any foul-up in terms of scheduling.

I think you have that power to respond at least to the scheduling needs of the traveling public. And I hope that you will use it. I sincerely believe the public needs a Top Gun down where you are going. And I hope that you can score on some of these problems effectively and as quickly as you did when you came out of pilot training. I am happy to see you going where you are going to go, and I hope we confirm you very quickly because I think we need you down there.

Thank you. Thank you, Mr. Chairman.

Senator FORD. Also need a "quick draw," don't we? A "big gun" and a "quick draw."

Senator STEVENS. Just a quick study of these problems I think is the main thing. I think my conversation with Mr. McArtor indicates to me that he will be working on these problems.

I tell you though, Mr. Chairman, I think before you are through, if some of these aren't solved, I'm going to try to give you back to CAB or something comparable because the traveling public is getting very, very disturbed. I have seen it before. Congress will react. Seventy-five percent of the inter-city travel in this country now is by air, and if it remains as fouled up for the rest of the summer as it has been in June, we will have to do something by September to answer it so it doesn't happen again next year.

Senator FORD. Senator Kassebaum?

Senator KASSEBAUM. I would like to share in the welcome, Mr. McArtor. I think you bring, with the background of both military and civil aviation, great experience at a very important time in aviation. Many of these comments have been made.

I would just like to say though I don't think there is any quick or simple solution. I don't know who had the wisdom to schedule this hearing the first day after we get back from a recess when everybody has struggled with the airlines getting back and forth, but you have heard everybody with their own horror story.

I greatly respect the talents that you bring. I think one of the things that you face—and it has been mentioned here before—are budget problems. This imposes additional burdens on you in decisions of which the budget is not of your own making.

Senator Stevens mentioned one idea that he has. Senator Ford and I have supported another concept of moving the trust fund off budget. And I think there is strong support here, and there always has been, to use the trust fund to its fullest extent.

It seems to me that one of the great strengths of Admiral Engen's tenure as Administrator of FAA was his wise use of limited funds. Obviously he came to feel strongly, as I am sure you do already, that much more is needed. And that leads me to my first question because it addresses the flow control restrictions that have been in place by the FAA, largely in answer to some severe criticism by NTSB and the GAO report.

When Senator Stevens was talking about approving the scheduling for hubs, isn't the flow control restriction really one way in which to help control flights in and out of a hub?

Mr. McArtor. Yes, ma'am. The flow control is a mechanism, of course, by which the FAA provides a governor to the amount of aircraft within the system at any given time and is an adjustment made when the FAA in its traffic management capabilities perceive that there will be saturation within any given sector or any destination airport. So, this is a mechanism to provide safety margins within the system by not allowing the air traffic network to exceed performance limits.

This does not imply, of course, that any safety limits have been broached by exercising flow control. Quite the opposite. It is normally a demonstration of the maintenance of safety limits. There is a difference though between flow control and actually restricting air commerce as a means to reduce the number of aircraft in the air.

Senator Kassebaum. How effective do you think it has been?

Mr. McArtor. I think flow control is certainly an effective concept. I endorse the concept. I believe we have a long way to go in order to perfect it. I think certain ops research, or operational research techniques, in order to build effective traffic models that would give us an extra tool to run simulations where we could simulate, for instance, the effects of adverse weather on the entire system, which would give us a better predictive model for flow control. Right now flow control is a useful and effective tool, but I believe it can be improved.

Senator Kassebaum. Do you believe that just adding additional controllers is going to be effective in lifting any of the current restrictions?

Mr. McArtor. I don't know that the restrictions on the air space right now are directly tied to a lack of controllers. When we talk about lack of controllers though system-wide, we run the danger of not specifically identifying any given air traffic control center or radar facility or tower. We have to really talk about the specific facility itself to understand whether we have a shortage of qualified personnel at that particular location.

I am advised that there are no duty stations that are left uncovered during any period of the day where we need to have qualified people on duty there.

However, it would be my intent with respect to the manning models, or staffing models, used by the FAA in determining the appropriate number of air traffic controllers to develop a more predictive model which will not only adjust to today's environment but also anticipate those special requirements now as we introduce new technologies and new training programs and recurrency programs into the air traffic control system over the next several years.

I would certainly like to assess the effectiveness of the air traffic control training and how we recruit and hire these potential air traffic controllers, and investigate the usefulness of creating another centralized advanced air traffic control training with the use of more dynamic simulation techniques similar to the use of simulators in training our pilots so that we give a more qualified controller to the actual operational facility thereby cutting down, hopefully, on the time that it takes for a green air traffic controller to go through his developmental phase and become a productive, experienced controller and to try to reduce the amount of on-the-job training at the actual operational facility.

So, I think there is a lot of things that we can do to both investigate and improve this air traffic control personnel work force.

Senator KASSEBAUM. You have mentioned in both the flow control restrictions and controllers the use of a model or a simulator to work through different problems. Do you anticipate establishing some of these model programs relatively soon?

Mr. MCARTOR. It doesn't take long to establish some of the models. Naturally, the more sophisticated the model, the longer it takes.

But I believe that the airline industry, for instance, in a co-effort with the FAA can develop an appropriate traffic model to begin to model this system which will be useful not only in today's environment, but to look into the future as to how the entire national air space system will interact with each other to show areas of demand which will be important not only for the air traffic control system, but a predictive model to show where the advancements and airports either in expansions and modernizations or new airports should occur.

Senator KASSEBAUM. There have some who have felt that the towers have been overstaffed and the enroute centers have been understaffed, and that perhaps even more than just adding large numbers of controllers, it's making a better adjustment within the system. And maybe this is somewhat what you are saying too.

Have you had the opportunity to study that at this point? Have you thought of any incentives that might be used to better make adjustments within the system? I am thinking of monetary incentives that would encourage controllers to move from a tower facility to an en route center.

Mr. MCARTOR. No, ma'am. Those are details within the air traffic control manpower model, if you will, that I have not discussed in depth, and I am not conversant in those subjects at this time.

Senator KASSEBAUM. Just one other question I have right now, Mr. Chairman, and this involves the concerns that have been expressed by some about the role of general aviation given the restraints that exist in the system and that may possibly be imposed in a further fashion. And I wonder if you envision the possibility of general aviation flights having to operate under greater restrictions than are currently being imposed.

Mr. **McArtor**. Well, first, I would like to say that I am extremely mindful, knowledgeable, and sensitive to the needs of general aviation, experimental aviation, as well as the airline industry. I don't want to get so focused on airline scheduling and the phenomena around hub operations that we inadvertently cut out of the pattern, if you will, the general aviation community.

I think it is also reasonable though to expect that any aircraft that is properly configured, any pilot that is properly trained and has the appropriate safety equipment on board and operating under the appropriate clearances should not be restricted from entering the air space in this nation.

However, there are some aircraft that are not so equipped that operate or wish to operate in and around the most concentrated environments that we have, around our major metropolitan areas, in what we call the terminal control areas, or the TCAs. It is most appropriate I believe to insist that aircraft who do fly in and around the TCAs are especially equipped with instruments or with electronics that will illuminate the position of that aircraft on the controller's scope. These are not restrictions in my mind, but simply sophistications to our system that are appropriate for these high density areas.

So, while I certainly don't wish to provide any restrictions in general to the air space by any user who wishes to use it, I do think that reasonable and sensible compromise in and around the TCAs is appropriate.

Senator **Kassebaum**. Thank you, Mr. Chairman.

Senator **Ford**. Senator McCain?

Senator **McCain**. Thank you, Mr. Chairman.

Mr. McArtor, I would like to return with you for a moment to this issue of the allocation of services at high density airports. I think it is an issue that unfortunately flies in the face of deregulation because if we have deregulation of the industry and yet there are not any slots available for competing aircraft to acquire, then it seems to me that we are imposing a de facto regulation on the industry if they don't have access to the busiest airports in America. It is my understanding that presently there are five, and that could increase by five more.

I noted in question 18 that was submitted to you by the committee that "one airline executive called for the allocation of scarce airport slots to the sale of such assets." I found that interesting and slightly amusing in that I believe that that airline executive didn't pay any money for that slot at the time. Isn't that correct? Or originally there was——

Mr. **McArtor**. I think the reference that you make is correct, sir, yes.

Senator **McCain**. But it still doesn't answer the question as to what we can do about this issue because I believe, and I would like to know if you share my view, that if an airline is going to succeed on a national basis, it must have access to our nation's busiest airports. Do you agree with that?

Mr. **McArtor**. I think that is correct, sir.

Senator McCain. Do you believe that the Department of Transportation's high density airport slot allocation is working presently? Before you answer that, just let me mention a couple of statistics that I think are very interesting.

At National Airport, if the U.S. Air/Piedmont merger goes through, the top two carriers will control each approximately one-quarter of the slots, adding up to 302 out of the 572 slots, or mearly 55 percent.

At La Guardia, if the merger goes through, the top two slots will have about 20 percent of all the slots, each aircraft together controlling 353 out of 769 slots.

I don't think that this is encouragement to competition if such a large number of slots at two of the major airports in America are controlled by just one or two airlines. Are you in agreement with that?

Mr. McArtor. Well, what I would agree with, sir, is the fact that slot allocations in and of themselves are certainly one of the most critical and probably emotional issues within the aviation industry right now. It leads directly into, of course, a discussion of the requirement for more airports and expanded airports. But believing that you must play the hand that is dealt you, right now we do have limited capacity to our airports. It becomes even more limited under adverse weather conditions, and it is up to the Federal Aviation Administration, of course, to create an air traffic control environment that is not only precise with the capacity of a given airport, but able to control aircraft in and around that airport in a safe manner.

Certainly any "slots for sale" or "peak hour pricing" solutions would have to be examined in great detail because I would agree with you. We would hate to have a new entrant into air commerce, who was attracted by deregulation, find itself suddenly prohibited from landing at one of its major airports within its business plan because of some inability to purchase slots along with the major carriers.

Beyond that, I can only say that I understand the competitive pressures on the airlines right now and the difficulty in assigning slots when the slots are such a limited commodity, and can only assure you that I will try to seek any balance between the slots allocation and the rights of the different companies in obtaining those slots.

Senator McCain. Well, let me suggest that I don't believe that more airports are going to solve the problem. And the reason I say that is I believe that National Airport, La Guardia and others, simply because of their geographic location, will always be extremely desirable for any airline to go into. Are you in agreement with that?

Mr. McArtor. I think you will find that the physical location of our major airports is certainly one of the attractive features of going into these major metropolitan areas.

Senator McCain. Well, I don't want to belabor the issue too much, but information that I have seen indicates that fares at both National and La Guardia Airports are higher per passenger seat-mile than comparable trips around the country. Do you concur with that? Have you seen that information?

Mr. McArtor. Well, I can't speak from expertise, sir, but I have no reason to doubt your statistics there. I have found that fares tend to reflect the demand on a particular, given commercial area within the country.

Senator McCain. Well, let me just say, Mr. McArtor, I hope that you will give it a high priority as far as the areas of contention that you look into. What I'm afraid of is that we are actually regulating unintentionally the industry. There are not slots in key airports for airlines, particularly the smaller ones to compete. Let's face it, they can't compete financially—the smaller ones—if we base it strictly on a highest bidder basis. So, I am afraid that you are going to find the Congress intervening legislatively, and it is not always clear to me that that is the best way out. I hope you will look at that.

Let me just talk to you a little bit about airport security. Being the resident of a city which ranked highest in the number of security violations according to a recent survey, I am somewhat concerned about the security there. And I would like to know if you are satisfied with the FAA security program at this time.

Mr. McArtor. I think that the FAA has made great strides in its security programs. It has gone a long way both domestically and internationally to improve security at airports. I guess it is also safe to say that I am never completely satisfied with the issues of security or safety. I think there is always room for improvement, and I think recent tests have shown that there are areas for improvement in most of our domestic airports for increasing security.

This issue is not simple. It is complex. It requires cooperation between not only the Federal Aviation Administration but the air carriers themselves. And our Office of Safety within the Federal Aviation Administration is certainly mindful of this, and we intend to continue to work with airport authorities and the air carriers to improve passenger security operations.

Senator McCain. Do you believe that the compliance tool, in other words, a $1,000 fine, is sufficient? It seems to me that what is at stake here is we should raise those fines for violations or at least raise the limit on those fines. Would you agree with that?

Mr. McArtor. Having not been involved any deeper than I have, sir, in this specific issue, I can't really pass judgment on the appropriateness of a $1,000 fine or any other fines. Certainly we need to have enforceable rules and regulations and the enforcement has to fit appropriately with that particular rule.

Senator McCain. Currently it is my understanding that the FAA bears the responsibility for ground security for the physical security of the airports, whereas the airlines are responsible for the passenger security, the metal detectors, et cetera. It strikes me that's a little bit unwieldy. Wouldn't it be more efficient in your estimation if we could combine the authority there?

Mr. McArtor. I am not aware of any particular conflict in having the security responsibilities divided the way they are. I certainly would always welcome any suggestion to better streamline, to make more efficient our security at airports. And if this is a particular problem, we will certainly make it a priority to look at better ways to provide airport security both on the ramps and the perimeter and screening of passengers.

Senator McCain. Without sounding too harsh, the excuse given for the large number of security violations that are undetected at airports in that the employees become lax.

They become bored with their job, and I certainly can understand that. And yet, one of the reasons why they are is because they are not highly paid. They are very low-paid employees. And I would suggest if there were a larger penalty involved with security violations, perhaps there would be sufficient motivation to get more highly trained and more efficient personnel. I hope that you will look into that aspect of airport security.

Thank you.

Senator Ford. Senator Hollings?

The Chairman. Thank you, Mr. Chairman. Mr. McArtor, I would like to clear up one particular point. With reference to the budget and so-called budget restraints—in reality there is none. I know full well that Gramm-Rudman-Hollings is blamed for cuts in veterans compensation. However, it says affirmative you can't cut the veterans. You cannot cut Social Security. You cannot cut food stamps. We've got a list of about 11 items in there that that particular law says you can't cut. And similarly with respect to the unified budget, you should know that the airport and airways trust fund can only be expended for airport improvement and safety.

With that in mind, remember that our track record in this committee over the many years with administrations from both parties has been to increase their request, not to decrease. This year, we increased the Airport Improvement Program authorization by $600 million.

Now, you have got left in the trust fund—right this minute there's almost $10 billion. And after we fulfill existing commitments you will still have $5.6 billion left there.

So, my request to you in behalf of this Committee I think is a reasonable one. And I would like to make sure about this with respect to any serious safety measure withheld that you immediately notify this committee that it has been withheld due to budget restraint. Can you make that commitment to us so that we will be notified?

You can't set the policy. You, in other words, have got a loyalty to the administration for your appointment. I have got a loyalty to my voters in my home state for my election. But we both overall have a loyalty to the public at large, and this is a town of no accountability. I can see we are edging into that nonsense that no one is in charge. That it was budgetary restraint is all about. And restrictions and everything else when the truth of the matter is that is all that money can be spent for.

Admittedly, the Office of Management and Budget will allocate it with respect to outlays, but that is just a budgetary allocation. That is not the shortage of funds. The funds are there. And the only way we can know about the budget restraint is for you to ask. So, if you just tell us here is a safety measure that you have had to refuse because of budgetary restraints. Can you notify us of that please?

Mr. McArtor. Mr. Chairman, it is an easy commitment to make to you that to the extent that there are safety concerns, serious safety concerns, certainly.

The CHAIRMAN. Thank you.

Mr. MCARTOR. I will notify you and everybody within earshot of the problems that we have.

The CHAIRMAN. I think that is highly important. Then put the bee on us and let us—you can find us scrambled up here. You will find a bunch of senators falling over each other trying to correct it immediately. And that is the way perhaps it should be because what we have been observing now is—well, there was a dichotomy between the Administrator and the Secretary. And I had an eerie feeling that one was going to blame the other or the other was going to blame the one if we had an airline crash.

Along that line you say educate the public. I have been, just since you made that comment, trying to educate ourselves up here and particularly you as the new Administrator.

We have had the dissolution of the Civil Aeronautics Board, but the economic responsibility for the reliability, insurance and otherwise has been taken over by the Department of Transportation. So, there is that responsibility. We have mentioned the increase in flights and the decrease in controllers, which is obvious to all of us.

The financial takeovers that have come about as a result of these money masters have no idea of mind of serving the public. We grew up in an age that had to prove the public convenience, prove the public necessity before you were granted the right. Now, with deregulation you can forget about the public convenience and necessity. What we have had to do in this committee is reaffirm employment contracts and so forth in these quick takeovers and mergers.

Many airports have lost service. This was put in in 1978. I still haven't gotten it. Someone asked about fares—higher fares for those hub areas of La Guardia and Washington, DC. I can tell you Charleston, South Carolina—right now, just left, $384 of single trip, round trip, to Washington, DC.

My assistant and his wife have taken off at the same time to Las Vegas for $360 for both of them. So, what we are doing is having the long haul flights being subsidized by the marginal flights. The rates have gone up, gone up, up and away. The service has gone down.

You have with respect to maintenance—you can see it now in recent FAA record levels of fines—that they haven't been maintaining. They have been cutting. That is what private free enterprise will cause you to do—to cut corners if you can get by with it. And I don't know whether you have had a look at how much has been expended. They will try to tell you that they are more efficient now in terms of maintenance spending. The fact of the matter is you can only be a nominal traveler, and you can see the way they maintain the engine, the way they maintain the interior seats and cabin and everything else, we are just lucky that the plane can take off. You look at some of the old puddle jumpers that I used to use in the Presidential campaign years.

We have held up on radar. We have had the Loran-C. It's only in place in a few areas. They say it could be much better, more efficient air traffic control equipment. There is no reason to hold that up if you think it is a worthy endeavor for the FAA to start moving into it. Like I say, we have got the billions of dollars lying there unexpended.

More than anything else, that's it. There is no budget restraint. I think we ought to emphasize that at this particular hearing because the money is there. It cannot be expended otherwise. It is for safety, and you have got all of these things coming into a focus here whereby in the early morning I hate to pick the Washington Post up off the porch out there because I can't tell whether it is going to be the economy is going to crash first or the airlines are going to crash. But one of them is going to happen. And you and I have got the duty to prevent both.

Now, we are not doing a blooming thing about the economy, but you can do something about these airlines in time. And I think the education is for you to quickly get to that—travel around on all of these airlines. I understand the Administrator of FAA gets his own private plane. I think we ought to take the plane away from you so you can fly on the regular airlines and experience all of this what we are seeing. You will have a better feel and a better understanding and make a far better Administrator. So, just sideline that luxury plane to buzz in and out. In fact, if you can help us, we will take the Coast Guard plane away from the Secretary, so she can fly with us and watch some of these things happen on the regularly scheduled airlines.

If we can get your cooperation on that, you will do well.

Senator **FORD**. Would you assign that flight to Charleston?

Senator **KASSEBAUM**. Mr. Chairman, excuse me. Would you yield just a moment, Senator Hollings?

The **CHAIRMAN**. Yes, ma'am.

Senator **KASSEBAUM**. I served on the Budget Committee when Senator Hollings chaired that committee and enjoyed being a part of the Budget Committee. But I would just like to say regarding budget constraints that I think it is OMB that—and you mentioned that—that is to blame. It is not the Department of Transportation or the request of the FAA or of Congress necessarily. But it has been traditionally OMB that has liked to keep the plus side of the ledger looking as good as possible.

The **CHAIRMAN**. And that's it. A plus side of the ledger or a bookkeeping amount. That's a terrible thing to occur because the money is there. It can't be expended for anything else. They are playing games financially on the budget as to whether or not how large the deficit is. It's $180 billion now. Whether it's $184 billion or $177 billion, whatever it is, it doesn't make too much difference.

The main thing is that you realize don't ever come up here and say, now, I could have done that and I wanted to do it, but I was restrained budgetarily. That is the main thing I want understood. Put the blame on us and make us act.

Senator **FORD**. Senator Exon?

Senator **EXON**. Mr. Chairman, thank you very much.

Mr. McArtor, I am not going to be very long. I appreciate your coming today, and I am going to actively support you in this position because I think you are highly qualified.

I hope that you have listened and are going to listen well in the future to the concerns of this committee because frankly we haven't gotten very far. When Senator Hollings was admonishing you for the private aircraft that the head of the FAA has, that too failed recently on a flight you may know about. So, maybe the maintenance issue goes clear on down through the industry to the FAA itself.

The aviation trust fund. I had that at the top of my list of concerns, but I think that has been covered. Each and every year this administration and previous administrations have not come forth with that money that is in there because they want to use it to offset the other horrible looking budget deficit problems that we have. Since we have the money and since it is not a budget item, let's spend it wisely, and let's spend it promptly for improving the safety of our airlines.

There have been several caveats put in today with regard to the fact that you're FAA and not CAB. Well, I suggest to you, and I think you know, that regardless of your responsibilities, which are primarily in safety in running the FAA, you are wound up so tightly with the overall responsibility of doing a better job and managing the government side of our airlines that they can't automatically be separated.

With regard to several of the horror stories to bring home the fact that we are in a crisis situation right now. I would simply cite to you that within the last few days my colleague, Senator Garn spent the night in the O'Hare Airport. One of my top aides spent Wednesday night in the St. Louis Airport, and another of my top aides spent Thursday night in the Minneapolis Airport.

Now, all that I can tell you is that is not just circumstances. That isn't all just weather. That's a lousy management of the whole system that you are inheriting.

But I think safety is number one, and I would certainly say that maybe I hope that you will get tough. I hope that you will say safety comes first. I think if you restricted flights you would send a very loud and a very clear signal. Oh, there would be some cries. There would be people that would lose their flight. Jim Exon might not be able to get his 4:30 or 5:30 flight Friday out of Washington National to go home. I am willing to make that sacrifice, as I think most people are, for the sake of safety.

There isn't any question but what the airlines are taking advantage of the situation of today. They are taking advantage of their customers all in the name of the competitive free enterprise system. It's hogwash. And if it isn't straightened out, then I say to the airlines, they are inviting reregulation of their industry.

I think there is enough said about it on this committee and the Senate that unless you are working hopefully in cooperation and not accepting lame excuses for what is going on in the airline industry today, we are going to start coming back with some regulation.

I was brought around to supporting deregulation. I think that I did the right thing except I believe that if it is not the responsibility of the FAA Administrator, if there isn't a CAB, there is still a Secretary of Transportation. They have some responsibilities. You just can't brush this off by saying it's nobody's concern. So, I hope that with your background and experience you will be more than just an FAA Administrator, but maybe a true champion of straightening out the mess that we are in today. And I suggest it is going to get an awful lot worse before it gets better. So, we are kind of counting on you.

One question that I have and whether you have studied this or not I don't know. But as you fully realize, some of the have-not cities where we do not have major boarding areas have been hurt by deregulation. It is not, as Senator Hollings just said, people going from one place to Las Vegas or Chicago to New York. There are all of these inter-lines, short routes. It is cheap to fly from Washington, DC, to New York City. That is not very far. It is more volume of traffic in my opinion rather than the distance of flight.

But in any event, essential air service is a key problem for those that have been left out with regard to deregulation although it is not your direct responsibility. You have had a lot of experience in aviation. Do you see and would you be in favor of some type of extension of the Essential Air Service Program to at least help make our system—and that's what it is—more complete even though the cost of traveling under essential air system from the customer's standpoint is going to be much, much higher than it is from going from New York City to San Francisco? How do you feel about the Essential Air Service Program?

Mr. McArtor. Well, Senator Exon, you are correct in recalling that that is not a specific responsibility of the FAA. However, I would agree that I am hopeful that air service can be provided to any small community or metropolitan area that wishes to have passenger service. I think that the essential air service program upon its analysis may be modified. Certainly continual reassessments need to be made to see if subsidized service into one community may be close enough to another community, say, 20 or 30 miles away where certain modifications to that program may need to be made. I think that is part of any continual reassessment program of anything, whether it be essential air service or any other program.

But as an aviator and as an executive in aviation, I would certainly hope that small communities who wish to have passenger service will have every access to the appropriate service within that community. And I would support programs that are allowed to do that whether it be essential air service or simply to encourage the air carriers to provide service.

Senator Exon. Well, I have a bill on essential air service. And it addresses this problem, you know. We can't have air service within 20 or 30 miles of a hub airport because an awful lot of people drive further than that to get on airlines today. But essential air service from widely and sparsely settled areas where there might be a considerable population there, but it's a 200 mile drive unless we have some essential air service. So, I hope you will take a look at that legislation as it comes on down the pike.

Thank you for being here today. I hope and I admonish you to be a whip-cracker, which I suspect that you are going to be over there. And we want to work and will be working closely with you. Come to us when you need help. And you don't have to worry. You'll be hearing from us. Thank you very much.

Senator Ford. Thank you, Senator Exon.

Mr. McArtor, I have several areas here and we will take a few more minutes and travel through those. I think we have kind of bounced from one concern to the other, based on each Senator's philosophy, his state, or areas of need. And I think you have heard too from Senator Stevens, who indicated he wants to do something to FAA—he and Senator Inouye—because they are the two who live furthest away.

I also have an interest in separating the FAA from the Department of Transportation. Then we will have the responsibility in one place and money in one place, and we can move in an arena I think that will be beneficial for all concerned. Because you are under the control of the Secretary of Transportation, whoever he or she might be in the future, he may have some interest in the FAA or none at all. We have OMB, and they may have attitude of no money until this year. And so, we found some sympathy for our larger budget this year, about a 60 percent increase for AIP spending alone.

So, we will continue to move through different issues. Our hearings this month will focus not only on essential air service, but also on an independent FAA. We will be moving in that direction. And you will come on board at the time we start looking at other changes in the agency.

We talked about flow control earlier and how it has affected air travel. As I understood flow control, that would keep you on the ground until there was an area open for you at the next airport or your destination.

I found today, in my travels that to Indianapolis, I was either 12th or 15th in the air to land. When I arrived at Washington from Indianapolis, they put me on the racetrack. I understand racetrack, both 500 and horse racing. That's around and around. That's a right turn in ten miles and a right turn in another ten miles. So I was on a racetrack.

That doesn't indicate to me that flow control keeps you on the ground until there is a vacancy or an available time for you at your destination. Is that your understanding of flow control?

Mr. McArtor. No, sir. Flow control is a predictive solution. Airborne holding is a reactive solution. Flow control is designed to hold an aircraft on the ground until it is predicted that there will be a landing slot for that aircraft at the particular destination airport.

Once airborne, however, depending on weather conditions—for instance, weather can close in and even close certain approaches to runways and disallow either parallel or opposite runway operations at any given airport.

In those kinds of conditions where you must react to traffic as it approaches a destination, you do have as an option for air traffic control a number of things: slowing aircraft down, spatially separating them, or putting them into airborne holding.

I do not advocate airborne holding as a predictive means of metering aircraft into any given terminal. But it is a reaction to existing conditions as they might occur, and sometimes does occur, particularly when inclement weather is in the local area.

Senator Ford. Well, we were 45 minutes late pushing away from the gate at Indianapolis. But we were only about seven minutes from the gate to takeoff time. So therefore, that was not a delayed flight, the flight I was on this morning. This morning I was an hour and forty minutes late. But under FAA standards, I was not late or delayed.

Mr. McArtor. Yes, sir. I might assure you, Mr. Chairman, and Chairman Hollings as well, that I fly the system, the commercial airlines, on a very frequent basis. I have stood in line and have been delayed and have been denied and have been bumped and cancelled and lost my bags and have been frustrated along with the rest of the passenger public.

I intend to do some travelling on the airlines. I think that is an important thing for me to do.

Senator Ford. I hope so. I've made 48 round trips a year to my state now for 12 years. I have purchased a ticket in Washington for Denver, Colorado, gotten off in Louisville, which is an intermediate stop, gone on home back to Louisville. When the Denver flight came to Louisville I got on the Denver flight and came back to Washington. I saved $100.

I would have paid $100 more to go from Washington to Louisville and back than I would have going on out to Denver. I had no business, so I just put the $100 in my pocket. It is very frustrating out there.

The by-product of limiting flights is increased numbers of delays. Do you believe that the traveling public should learn to accept the delays as being "safety at work"—if I can use that term with you this morning? What can be done to reduce flight delays?

Mr. McArtor. I think clearly that the flying public must be mindful of the various factors that make up a delay, if you will. Most airline captains will want to say that there is an air traffic control delay, when in effect that is not precisely the case.

Almost all delays could, if you wanted to say, were air traffic control delays because they failed to be able to obtain a proper clearance in order to take off and reach their destination.

Whether the inability to obtain a clearance was because they scheduled too many aircraft at one time or they had a maintenance problem on the aircraft and pushed back late, or whether there were other induced problems—be it induced weather or anything else—the bottom line is they were not able to reach clearance within the air traffic control system.

But, I think that the traveling public needs to understand that while there are capacity limits at an airport, these capacity limits are understood by the air traffic control system and are adhered to. There is no pressure, nor will I tolerate the pressure, to have more aircraft either depart or arrive at an airport and compromise safety margins in an effort to put more planes in or out of an airport.

I think the public has to understand that the reason they are being delayed and not able to enter the air traffic control system is because these capacity limits are being adhered to and adhered to religiously by the air traffic control system.

But they also have to understand the phenomena of scheduling of airlines in and out of hub operations at peak hours. There is a rush hour phenomena. But to blame the FAA for most of these delays is like blaming a traffic cop for rush hour traffic.

Senator Ford. Well, I can attest to all these things, as you have. When you land at a hub and there are five flights leaving at the same time, you know that will not happen. I have said this many times before: we just pray that you're called early so you will only be ten minutes late instead of being called last. Then you'd be 30 minutes late, and you know that going in.

Not too long ago one of the members of my staff was coming back from Louisville into a hub, and the pilot announced that they were being held on the ground for a while by the controllers. Then he added, however, it's for your safety.

I've never heard it. That's the first time I've ever had that reported. But that gets back to safety at work or whatever it might be. At least those on the airplane will understand that they're not doing it just for meanness, that they are holding you there for safety.

Let's get into the NAS plan just a little bit, which gets into safety. The National Airspace System is now five years along in implementation. What are your views on where the NAS plan is and where it should be, if you had an opportunity to get into that, Mr. McArtor?

Mr. McArtor. Well, my specific detailed briefings on the NAS plan literally begin tomorrow, Mr. Chairman. I have not had detailed briefings on the various technologies and the 40-some programs that make up the NAS plan.

However, it is my experience in developing and managing large technical programs that will make me insist on realistic schedules within the NAS plan and measurable milestones, so that we know where we are in this modernization program.

The other is complete insistence on sound program management techniques, where we have true integration and engineering of this NAS plan, such that each contributing technology does what it has been envisioned to do to modernize our air traffic control system.

I believe that I bring some unique perspective and experience in being able to provide executive leadership in the management of the NAS plan.

Senator Ford. The FAA has what they refer to as Systems Engineering Integration Contractor. That contractor is Martin Marietta Corporation. How do you see the relationship between the FAA and Martin Marietta today?

Mr. McArtor. My experience has shown that to have a single entity acting as Systems Engineering Integrator is a sound program management technique and tool. I am familiar with Martin Marietta Corporation. I know the executive management of Martin Marietta, and I have confidence in them as a corporation.

I believe that they will do a fine job of systems engineering and integration in conjunction with both the FAA and the Mitre Corporation as we roll out the NAS plan. However, I do want to make sure that your perceptions of the mission of Martin Marietta as the systems engineer and integrator, and my perceptions of what they are doing, and theirs, are all the same thing.

Senator Ford. Let's just go back to the air traffic controllers for just a moment to follow up Senator Kassebaum's question. I'd like to have you repeat and maybe elaborate a little on how can the FAA better insure that it has adequate staffing levels to meet future demands on the air traffic control system?

Mr. McArtor. My initial perceptions, Mr. Chairman, are that the FAA of course has been in a reactive mode since the controller strike in 1981, and that right in the face of deregulation and a dramatic increase in air traffic right across the system, coupled with the fact that it has traditionally relied upon on-the-job training for the most part in providing the training to the air traffic controller.

I think that what we will try to emphasize is a more predictive model where we can not just chase the problem but get out ahead of the problem and meet it coming head on, with a staffing model that takes into account the dynamics of our air commerce industry and the different technologies as they roll out, which will by definition require additional training, and to take a look at these staffing levels on a per facility basis.

Once again, to try to be proactive rather than reactive. Certainly this is a high priority issue, as you might well imagine, for the administrator of the FAA. I will give it very much my personal attention.

Senator Ford. One item that I always find that is brought up wherever I go for a hearing or to discuss airport operations—noise. So I'll ask you a noise question.

One of the most difficult problems in aviation, I think, is the balancing of noise with the need for access to our major airports. In your mind, should the FAA determine noise standards for aircraft operations at local airports?

Mr. McArtor. Yes, sir. I think it is appropriate for the FAA to establish national noise standards. Different standards for different airports are disruptive to the national air system, and actually disadvantage the local airport as well.

I believe that fair and balanced noise standards, with specific dates for enforcement, are needed by both the communities and the air carriers. I think the key here is balance. There must be an awful lot of communication, education, understanding, and compromise in the establishment of appropriate noise standards so as to balance the needs of the local communities, which are naturally sensitive to noise, and at the same time the capacity requirements for approaches and takeoffs at our nation's airports.

But yes, I believe a national noise standard needs to be established and enforced.

Senator Ford. Let's talk about FAA management. I'll ask you just one general question on that.

Regarding your relationship to the directors of the various FAA regions, do you envision these directors managing their respective regions with a great deal of autonomy? Or do you intend to deal with most policy issues at the Washington level in the interests of standardization?

Mr. McArtor. Once again here, I think the key is balance, Mr. Chairman. Clearly the regions are the implementors of policy. The headquarters FAA is the establisher of policy and the provisioner of resources to the regions.

But the region is where the rubber meets the road. That's where the actual activity of the FAA happens on a day to day operational basis. I think it is a fair criticism that enforcement of regulations across the regions has not always been consistent. This is part of the balance.

I believe that the FAA headquarters has an obligation to try to establish a consistent interpretation of Federal air regulations across the regions, and to try to make the air traffic control system as transparent as possible as you go from one region to the next.

So I look to a certain amount of independence on the part of the regional directors in order to fulfill their mission. But by no means to sacrifice the continuity that must be developed and dictated by the headquarters.

Senator FORD. Let's talk about the Secretary's office and your relationship with the office staff.

In the area of management, we are very interested in the functioning of the FAA and the interrelationships between the Office of the Secretary of Transportation. With that, do you plan any reorganization of the FAA?

Mr. McARTOR. No. I don't believe that reorganization within the FAA is appropriate at this time. However, I say at this time. I believe that the obligation of any senior executive in any agency or any corporation has to be a continual analysis of the effectiveness of the organization over which they preside.

I think the FAA is not an exception to that. I have no reason to believe that the organizational structure is inappropriate at this time. I do look forward to a very productive working relationship with the Office of the Secretary.

I have every assurance from Secretary Dole that she has confidence in me to be the administrator of the FAA, and will support me in my management of the agency and in the fulfillment of its mission. I look forward to working with Mrs. Dole in this regard.

Senator FORD. Do you intend to consolidate or close any of the FAA regions or its headquarters?

Mr. McARTOR. No, sir. I have no plans to either consolidate or eliminate any of the regions.

Senator FORD. It has been suggested by many that there is meddling by the Office of the Secretary of Transportation and subsequent delay in aviation matters and areas of rulemaking, budget decisions, aviation policy and so forth.

How would you combat this?

Mr. McARTOR. I really can't speak, Mr. Chairman, from any firsthand knowledge of any previous operating relationships, other than to reaffirm that Secretary Dole and myself have committed ourselves to doing everything we can to continue to enhance safety.

As you know, Mrs. Dole is very strong on the maintenance of the highest degrees of safety within the aviation system. There is a balance between the role of the Office of the Secretary of Transportation and the performance of the mission of the FAA. They are certainly helpful in providing resources and developing policy and the removal of barriers for the affective performance of the mission of the FAA.

To the extent that these roles may become imbalanced, I look forward to Mrs. Dole as a strong leader and myself as a strong leader to recognize these imbalances and to provide corrective action. I have no reason to believe there will be any problem, and I look forward to a very good working relationship with both Mrs. Dole and her staff.

Senator FORD. The one thing about it my friend, I want you to run the agency. I hope you will. If you do appoint a Chief of Staff, how will you use the Deputy Administrator?

Mr. MCARTOR. The Deputy Administrator is a very useful, and essential individual within the operations of the FAA. The FAA is established organizationally as an operational unit. It runs a seven day a week, 24 hour a day operation.

Like most operations who are operationally oriented, they are not particularly good at strategic thinking or planning. I need to establish a more affective planning and strategic role within the FAA.

I believe that can be done effectively through an executive staff. The Deputy, on the other hand, is going to be relied upon a great deal for the management of the day to day operation of the FAA in the performance of its mission.

I intend to rely heavily upon the Deputy. In order to do so, that allows the administrator to be the change agent, to actually pursue those high priority things where they can be improvd. Without reliance on a strong Deputy, it's not likely that change can occur.

Senator FORD. Do you have any feeling yet—I probably shouldn't ask this question, but I'll see how you face it—Do you believe that the FAA should be a separate agency?

Mr. MCARTOR. Once again, Mr. Chairman, I have looked forward to the hearings that you will have later in this month on this issue and the Byrd Commission. I have no reason to believe there would be any more problems solved than created by having the FAA as a separate agency.

I think it is appropriate that it serve under the Department of Transportation, under the Secretary of Transportation. I believe that those things that would have been achieved by having a separate FAA can be achieved under the present organizational structure if the executive commitment there is present to achieve those items.

Senator FORD. Have you selected the new special assistant to the administrator?

Mr. MCARTOR. Well, I intend to create, as you mentioned, a chief of staff position. Mr. Michael Goldfarb, who comes from the Department of Transportation and with whom I have worked for over a year now, is my designee for this position.

Senator FORD. How many candidates did you consider or how many people did you consider before you made this selection?

Mr. MCARTOR. I made this selection very carefully. After analyzing the potential of having individuals from within the FAA or from within the Department of Transportation, naturally you would want to find somebody whom you have extreme confidence in and who have developed a mutual loyalty and trust between them, and who has an exceedingly high intellect. I believe Mr. Goldfarb meets those qualifications very well.

Senator FORD. How many people did you interview before you made this selection?

Mr. MCARTOR. Well, I can't say that it was a formal interview process. But I can assure you that I spent a great deal of time thinking about this and developing the plan and the strategy around which this office would work.

Senator **Ford**. Were any of the people or candidates for this position suggested by the Office of the Secretary of Transportation?

Mr. **McArtor**. No, sir. As a matter of fact, I did not have any discussion with either the Secretary or any of the staff in my selection. This was my selection made independently by me.

Senator **Ford**. Did you have to get approval for the position from the Office?

Mr. **McArtor**. Well, like most key positions, there is an approval mechanism. I, if you will, made the suggestion and said that this was my choice and received absolutely no criticism or anything other than the most wholehearted endorsement of my recommendation.

Senator **Ford**. You have been here a couple of hours, and it seems like our audience from this side has been somewhat diluted.

But there is one item that I hope is in the record. That is the statement you made about the sale of stock and the problem that you've run into with the SEC, as well as why you have to delay disposing of those assets. Everybody understands that you're not trying to do anything that's not proper and correct. That will be in the record so that it's up front and on the table. Nobody will then have a problem with that.

Mr. McArtor, maybe a few other questions that I would like to ask you after I think about today a little bit. I have two or three more here. I'll submit those to you in writing and ask you for a prompt reply. With that, hopefully we can get you before the committee at a very early date.

I thank you for your patience. Thank you for your cooperation. I look forward to working with you.

Mr. **McArtor**. Thank you, Mr. Chairman.

Senator **Ford**. This hearing is adjourned.

[Whereupon, at 3:50 p.m., the hearing of the full committee was concluded.]

[The following information was subsequently received for the record:]

PREHEARING QUESTIONS OF THE MAJORITY AND THE ANSWERS

Question 1. Mr. McArtor, you have worked in several positions at Federal Express Corporation, as well as having been a military pilot. How do you believe these and other experiences make you qualified to serve as Administrator of the FAA?

Answer. The Administrator of the FAA must be able to lead and manage an extremely complex and diverse organization operating in a rapidly changing, dynamic period of aviation history and of growth in air commerce. Modernizing the airways, airports, and traffic control facilities requires an Administrator who not only understands the technical, economic, and operational dimensions of the aviation industry, but one who possesses an ability to motivate people, work constructively with a wide range of competing interests, and who knows how to achieve consensus in moving our aviation system forward. My career experiences fit these qualifications well.

My experience as a pilot and extensive background managing large complex technology programs and aviation operations for the Federal Express Corporation should prove invaluable to me as Administrator of the FAA. This experience was gained over eight years of explosive corporate growth and required broad-based strategic decision-making, swift actions, and sound executive judgment. Additionally, this experience provided me with insight into successful human relations programs, management training techniques, and the advantages of maintaining face-to-face communications with employees.

Briefly summarized, my experience includes: (1) an indepth understanding of complex technical programs with their associated research, development, operations, and evaluation functions; (2) strong analytical and strategic planning skills and related experience as a senior executive charged with managing a large multi-functional telecommunications network, domestically and internationally; (3) experience in the problems of interstate commerce associated with airline operations and telecommunications and a thorough knowledge of the aviation marketplace; and (4) an indepth knowledge of aviation engineering, technologies, and operations issues. Taken together, I believe these experiences qualify me well for the position of Administrator but, more importantly, my interest in people and experience as a proven manager, team builder, and leader throughout my career has provided me the necessary knowledge, skills, and ability to ably serve American aviation interests as we begin our transition into the 21st century.

Question 2. In recent months, there has been a great deal of attention focused on the condition of the civil aviation industry. if confirmed, you will be the Federal government's spokesman on issues related to aviation safety and capacity. What steps do you plan to undertake to restore public confidence in the FAA and the safety of the civil aviation system?

Answer. I believe that greater public confidence in air safety would result from education about how FAA's air traffic control system works. While the traveling public has been told that the air system is safe, FAA needs to better communicate *why* the skies are safe and how margins of safety are maintained. I'm convinced that FAA has safety as its primary goal, and I intend to make that goal my top priority as well. As spokesman on aviation, I plan to increase the emphasis on communication—with the traveling public, industry, Congress, and others—as we modernize the aviation system to safely keep pace with rapid growth in air commerce. Public confidence will result from the knowledge that FAA is doing everything possible to ensure public safety. As Administrator, I will ensure that FAA is, in fact, doing everything possible to earn the public trust.

Question 3. What, in your opinion, are the strengths and weaknesses of the FAA? If confirmed, what actions will you undertake to improve those weaknesses?

Answer. The FAA has a distinguished history in the development and maintenance of a civil aviation system that is unquestionably the finest in the world. The safety record of all facets of U.S. aviation is exemplary. The FAA has contributed immeasurably to the development of a safe, efficient, and widely utilized aviation system; the FAA is the repository of a great amount of the Nation's aviation expertise. We sometimes forget, I believe, how well the FAA does in the performance of its mission. Perhaps it only reflects my management style, but in light of the FAA's mission and the performance against that mission, it is difficult for me to use the term "weaknesses" to describe those areas "not yet as strong" as I wish them to be.

The greatest asset of the FAA is its people. Over the past weeks, I have been impressed, time and again, with the depth of personal commitment of the people of the FAA. The favorable impressions I have received in my career from working with individual FAA employees have been reinforced many times. There is no doubt that there is great commitment and technical competence in all disciplines of aviation among the entire agency.

I would like to see the FAA broaden its horizons; it is a very operations-minded agency and could benefit from greater broadbased strategic thinking and planning. In a similar vein, I believe that the FAA should continually improve its training programs, and the recruitment and assessment of air traffic control candidates can be improved. Most importantly, I believe the FAA should communicate more effectively. The FAA must improve the public's understanding of, and trust in, the FAA mission.

It would be premature to identify specific improvement at this time. However, general areas on which I will focus include: (1) improving the dialogue between FAA and its "customers"; (2) expanding FAA's safety programs; (3) continued modernization of equipment, operational procedures, and management techniques; (4) greater participation of the FAA work force in problem identification and solution; and (5) creation of more effective working relationships with DOT, Congress, and industry.

Question 4. In its letter to the Committee, the Office of Government Ethics stated that you do not intend to immediately divest yourself of your holdings with Federal Express Corporation. According to this letter, if you fulfill a set of commitments, you will be in compliance with applicable laws and regulations governing conflicts of interest. Would you please outline what those commitments are and how they will put you in compliance with conflict of interest provisions?

Answer. In order to avoid any conflict of interest, I have agreed to the following undertakings and arrangements as a condition of my becoming, if confirmed, the Administrator of the Federal Aviation Administration.

As an executive officer of Federal Express Corporation (FDX), I hold common stock and options to purchase common stock in FDX. The options are held under an

FDX employee stock incentive plan. Because FDX does conduct aviation operations that may be affected by the FAA, I will sell all of my interest in FDX. To accomplish this, I will exercise all of my vested options upon resignation from the company. Because of section 16(b) of the Securities and Exchange Act of 1934, as amended (15 U.S.C. 78p(b)), I will not be allowed to sell any FDX stock until 6 months after the date I exercise the options. Since there will be a period of time while I will be, if confirmed, Administrator of the FAA and will still be unable to actually sell the stock because of section 16(b), I have agreed to the following arrangement for the purpose of avoiding the potential conflict of interest.

All of my holdings in FDX will be placed in an irrevocable trust to be administered by First Tennessee Bank (FTB) as trustee before I become Administrator. The trustee will be instructed to sell all FDX stock within 30 days of the date the section 16(b) 6-month period is over. By the terms of the trust, the amount of the proceeds from that sale that I actually will receive as beneficiary of the trust will be subject to a maximum amount based upon the market price of the stock at the time the trust is created. Any amount of the sale price exceeding that maximum will be donated to charity.

Although the benefit to me is limited by this arrangement, the value of the stock upon liquidation will still have an effect upon my financial condition. Accordingly, I agree to certain additional measures to be undertaken to practically preclude the possibility of my using my office as Administrator of the FAA to affect the value of FDX stock before the liquidation. I will disqualify myself from participating as Administrator of the FAA in any particular matter in which FDX is a specific party in interest, such as proposed fine against the company for safety violations. To avoid any appearance of favoritism on my part, the Department will require that I so disqualify myself for 2 years after my appointment date or the term of my office, whichever is lesser. In addition, I will disqualify myself from participation in any rulemaking or policy determination that could have a direct, predictable, and substantial effect upon FDX's financial condition and that affects FDX in a manner distinguishable from the effect on air carriers generally, such as the grounding for safety reasons of the type of aircraft that is a significant portion of that company's fleet. The FAA Deputy Chief Counsel, in consultation with the Deputy General Counsel of the Department, who is the Department's Ethics official, will determine if I must be so disqualified in any particular instance. To do so, the Deputy Chief Counsel, in consultation with the appropriate FAA Associate Administrator, will screen each FAA rulemaking and policy determination that potentially affects the air freight carrier industry of which FDX is a part before the matter is brought to my attention. This disqualification will remain in effect until all of my FDX holdings have been sold.

I also have a vested interest in a bona fide FDX profit sharing plan. After terminating my employment with FDX and before becoming Administrator of the FAA, I will receive a cash settlement of all my interest in that plan.

Question 5. From September 1979 to the time of your nomination, you served as Senior Vice President-Telecommunications with Federal Express Corporation. Could you please outline the positions you held and your responsibilities while at Federal Express?

Answer. I joined Federal Express in September 1979 as Vice President, System Operations. This was a new division reporting to the President and Chief Operating Officer and was responsible for the communication, coordination, and control of the various operating divisions of Federal Express including the airline operations, maintenance control, airline scheduling, and the "operations control center" activities.

In June 1981, Federal Express increased its commitment to the development of advanced systems to further differentiate its products and to provide competitive advantage into the 1990's. Because of my background in aviation and technology, I became Vice President, Advance Projects and Research. I provided the leadership and management of several programs including advanced avionics and head-up displays, the development of business plans featuring airline passenger operations, and out-sized cargo air carrier operations.

It was Federal Express' interest in satellite communications and the available space launch capability that first interested the company in commercial space transportation as a growth industry. Federal Express was the first company to pursue the commercialization of a major expendable launch vehicle system. I headed a subsidiary operation, the Fedex Space Transportation Company, the first pursued the privatization of the Titan launch vehicle.

In 1983, the company renewed its commitment to satellite communications as an effective way to meet the rapidly growing data and voice requirements of the expanding corporate operations. I was asked to form a new operating division, the Satellite Systems Division. This division successfully secured from the FCC the operating authority to launch and operate two high-powered Ku-band communications satellites. In addition, it created the architecture for the largest end-to-end interactive satellite communications network featuring a central telehub and thousands of small earth stations.

This position expanded into a consolidated division, the Telecommunications Division, responsible for all voice, video, data, image, and radio systems. This division was responsible for the planning, development, testing, integration, operation, and maintenance of highly integrated multi-purpose networks featuring satellites, private data lines, and fiber optics. The much renowned digital dispatch system of the company (the 800 MHz radio data-voice system) was also under this division as well as the major customer service "call centers" across the U.S.

Question 6. While with Federal Express, what was your involvement with the ZapMail electronic mail program? Why was the decision made to terminate this program?

Answer. As a Senior Vice President, I was a member of the executive team that fully endorsed the ZapMail concept and product. During the development and introduction of ZapMail, my two organizations, the Satellite Systems Division and Telecommunications Division, provided a support role to the Electronic Products Division which had profit and loss responsibilities for ZapMail. I was accountable for the creation of the "communication networks" that supported ZapMail as well as the data network requirements of the Federal Express package delivery business. The successful performance of these satellite-based networks is a matter of record. The ZapMail program was terminated when the projected business plan failed to meet corporate expectations.

Question 7. Prior to joining Federal Express, you served as an officer and director of Delta International, Inc., and Tennessee Investment Properties. What were your responsibilities with these firms? Do you have any continuing financial relationships with either of them?

Answer. Delta International, Inc., is a family-owned business created in 1974 with my brother, John McArtor, and me as the principals and sole shareholders. Delta's business involved the structuring of business plans and investment opportunities, the management of private capital, consulting, and the formation and management of limited partnerships. I served as Chief Operating Officer and was responsible for most venture capital programs, particularly those involving high technologies, computers, and aviation. Tennessee Investment Properties was a wholly-owned subsidiary of Delta, and was registered as a broker-dealer in securities by the State of Tennessee for the purpose of marketing and managing real estate joint ventures. Upon joining Federal Express in 1979, I ceased all day-to-day involvement with Delta International, Inc., and Tennessee Investment Properties. As of 1979, I held no stock or financial interest in either company. I resigned as a Director of Delta International this year. Delta International's current business activities as a "commodity pool operator" center around the management of investment partnerships. Delta International has no business activities associated with aviation or aerospace.

Question 8. You have served as Chairman of the Commercial Space Transportation Advisory Committee to the Department of Transportation. How were you selected for this position? What were your responsibilities with the Committee?

Answer. Transportation Secretary Elizabeth Dole appointed me Chairman of the Commercial Space Transportation Advisory Committee (COMSTAC) in the spring of 1986 upon the recommendation of the Director of the Office of Commercial Space Transportation (OCST) within the Department of Transportation. OCST is charged with administering the Commercial Space Launch Act of 1984 and, in consultation with its formally constituted advisory committee, establishes policy and regulations for the emerging commercial rocket industry in the United States. As Chairman, I convened, according to the Committee's charter, two meetings of COMSTAC; one in September 1986 and the other in April 1987. Both meetings provided a forum for American aerospace executives to identify industry issues in commercial space transportation and recommend policy to the Secretary of Transportation and the OCST. At the request of OCST, the COMSTAC, on special assignment, reviewed a Government draft agreement for private sector use of commercial launch ranges and submitted a report containing industry recommendations. I led that effort and presented the report to Secretary Dole and Air Force Secretary Aldridge in February 1987.

Question 9. The Aviation Subcommittee has scheduled hearings to consider whether or not the FAA should be made an independent agency. What are your views on whether such a step should be undertaken?

Answer. Although I have not heard a conclusive argument for a change in the structure of the FAA, I believe the debate about a separate FAA is a healthy one. Three major concerns underlie the debate: access to the aviation trust fund, flexibility and autonomy of FAA to manage its program and personnel, and timeliness and efficiency of the procurement process affecting NAS Plan systems modernization. Through strong leadership and management at FAA, I anticipate that all these concerns can be addressed within the current organizational structure. Independence of FAA may appear a reasonable solution to complex problems, but prior to results of the Aviation Subcommittee hearings and findings of the Byrd Commission, specifically charged to address this issue, it would be premature to assume these solutions would solve more problems than they create.

Question 10. The Commerce Committee has reported legislation, S. 1041, the Transportation Employee Safety and Rehabilitation Act, requiring the establishment of random drug testing programs for airline and FAA employees in safety-sensitive positions. What is your opinion of mandatory random drug testing for such individuals?

Answer. The traveling public must have confidence that those involved in our transportation systems are drug free. As the committee in it legislation rightly states, there is no room for drugs among transportation personnel charged with the safe transport of people and goods. Properly administered with appropriate safeguards, I believe random drug testing for airline and FAA employees in safety-sensitive positions, as outlined in S. 1041, is appropriate and the only alternative of which I am aware that provides an effective deterrent. I strongly believe such testing will also show that the majority of employees are indeed drug-free and take their responsibilities seriously. Management also has special responsibilities in a random testing program. They must ensure employee rights are not violated, that the test results are accurate and confidential, and that employees are offered counseling, rehabilitation, and referral, as needed or appropriate. While I believe we need to consider all reasonable approaches to solving this problem, the opponents of this program must produce a better alternative that provides the same level of deterrence and public confidence.

Question 11. Secretary Dole recently requested funding for an additional 955 air traffic controllers and support staff. Given your experience in aviation, do you believe this request is adequate? What steps do you believe are needed to ensure future staffing levels will be adequate to accommodate growth in air traffic?

Answer. While my experience in aviation will undoubtedly assist me in many areas of management in FAA, I do not yet have the information necessary to determine air traffic control staffing standards. I am advised that this recent increase was due in part to an unanticipated rise in demand coupled with FAA's requirement to ensure the safety of the National airspace system. I intend to develop a prescriptive, air traffic demand model for effectively designing future staffing levels. New definitions and standards may be needed to ensure that controller workforce levels, training, and recruitment programs reflect the continuing modernization of equipment, procedures, and management techniques. Accordingly, one of my first priorities as Administrator will be to evaluate the staffing, training, and management of the air traffic control system as it operates in a period of dynamic growth and rapid change. Hopefully, as a result of better planning and management, FAA can anticipate air traffic growth.

Question 12. With the air traffic controllers having overwhelmingly agreed to unionize, there is a concern that labor-management problems continue to exist at the FAA. What steps would you take as Administrator to improve relationships between air traffic controllers and FAA management?

Answer. Among the strongest elements of my background, and the management skills on which I put greatest emphasis, are effective leadership and employee communication. Air traffic controllers provide a vital service to the traveling public; the programs I had planned to institute to improve the controllers' work environment would have been the same with or without an air traffic controllers' union. Among the controllers, there is a tremendous store of knowledge on the functioning of the Nation's aviation system. The controllers are, in large part, the repository of that knowledge and should be better utilized to solve the problems of the Nation's air system. I hope to improve communication from the work force up through the FAA senior management. At the same time, I will emphasize improved management communication of the agency's goals, policies, and problems. I will put greater emphasis on the effectiveness of the FAA's Management Training School to prepare our managers to better utilize and respond to the needs of their fellow FAA employees. I will ensure that the new leadership of NATCA remains fully briefed on all aspects of FAA operations and challenges.

This question, and my answer, are specifically targeted toward air traffic controllers, but it is not meant to exclude other employees of the FAA. Similar emphasis and programs will be implemented agencywide. I believe a continued strong emphasis on human resource management must remain a top priority within the FAA. Accordingly, I plan to personally communicate with unions and appropriate employee groups on a regular basis.

Question 13. The FAA currently contracts out its air traffic control services at 14 low level activity air traffic control towers that remained closed. What is your opinion of the FAA's efforts to provide air traffic control services through such contracting processes?

Answer. Where possible, contracting out air traffic control services at low level activity towers is a good program because it could save scarce resources better used in high density control areas. Contracted tower opportunities which can enhance operational capability and justify cost-effectiveness should be evaluated on a case-by-case basis and, where appropriate, included in the contract control tower program.

Question 14. There has been a continuing concern that since airline deregulation was enacted, the margin of safety in the commercial airline industry has diminished. How can the FAA better ensure that cost-based competition does not in any way reduce the margin of aviation safety?

Answer. The competitive pressures in the airline industry must never be allowed to erode the margins of safety related to aircraft maintenance and aircraft operations. FAA, under deregulation, has an even greater challenge in strictly enforcing safety regulations and has established with industry an outstanding safety record since deregulation. I plan to continue the excellent work of my predecessor who, with the concurrence of Secretary Dole, greatly increased the number of inspectors, intensified the inspection program in both general and commercial aviation, and increased the vigor of the FAA's enforcement program. Furthermore, I plan to explore some ideas and programs to elevate the sense of corporate accountability of the senior executives of air carriers by making them feel more personally involved in the air carrier's obligations of compliance under their operating certificates. I also intend to expand the functions of the Office of Aviation Safety by providing greater support to the regions.

Question 15. As you know, the FAA has the responsibility of both promoting aviation and ensuring safety. Some have suggested that these two functions are incompatible and that the FAA should be relieved of its promotional responsibilities. What is your opinion of this suggestion?

Answer. In my view, promotion of aviation and ensuring air safety are not mutually exclusive. To the contrary, it has been my experience that the best way to promote aviation has been through improvements in safety. Much of the reliance today on air travel by the American public can be traced to the outstanding aviation safety record. I would also add that, in my review of the FAA's activities and programs, I have not found any significant focus within the agency on promotion of aviation that does not have a substantial relationship to enhancing safety. Clearly, the FAA's foremost role must be to press for ever greater safety improvements; to my knowledge, the promotion of aviation has never stood in the way of the agency's working toward the attainment of those safety improvements.

Question 16. Airport noise has become one of the most emotional issues in aviation. As Administrator, how would you balance the interests of local communities with the needs of interstate commerce?

Answer. I believe the solution to the noise issues requires consensus building among local communities and between Federal, state, and local agencies. Noise is just one of several barriers to increasingly needed airport capacity in this country. Part of the problem has been the failure to articulate interstate commerce needs, making the resolution of local community noise concerns nearly impossible to achieve. Until we, as a Nation, develop a long-term blueprint and program for expanding America's aviation transportation infrastructure, barriers to specific individual efforts at airport expansion and development such as noise and environmental concerns will permanently block our road to the future.

Communities simply want fair treatment in the planning of airport improvements or expansion. Likewise, air carriers want fair and well-defined noise standards and dates of compliance that are reasonable, yet certain. And airport authorities need to know how their individual planned improvements contribute to interstate commerce so that economic and social benefits from such expansion can be supported within local districts.

Question 17. In the past several years, the expansion of airport capacity has become a top priority in civil aviation. What do you believe is the appropriate Federal role in the development of airport capacity?

Answer. Air travel has become an essential part of the lives of millions of Americans; air commerce is one of the foundations of the Nation's economic health. The Federal Government must lead in the development of plans to prepare for the future growth of air commerce. The FAA has illuminated the lag in development of airport capacity behind the development of airway and air traffic systems. The FAA and the Nation's air carriers should jointly create a model which quantifies the demand for airport capacity in the future. The Federal Government should work aggressively to remove barriers—regulatory, technical, financial—to the development of adequate airports for the future. Despite the urgent requirement for new airports, however, it is not the FAA's role to dictate to state and local governments their actions concerning development of new airports. The FAA's role in this instance is to guide, not to direct.

Question 18. Recently, one airline executive called for the allocation of scarce airport slots to the sale of such assets. Would you support the sale of airport slots as a means of determining who should have access to an airport?

Answer. There is ample evidence that the use of economic incentives provides an effective means for allocating scarce resources such as airport slots. However, while this scheme may produce a short-term solution to perceived overcrowding, one must be careful not to create long-term disincentives to smaller airlines and emerging companies encouraged to enter the marketplace by deregulation only to find the cost of airport access too high to compete.

As Administrator, I will endorse all ideas for improving scheduling and use of the Nation's airspace and ground-based facilities. However, before any new solutions, such as "slots for sale" or "peak period pricing," would be seriously considered, a complete and comprehensive evaluation of its impact on the aviation system should be considered.

Question 19. The National Airspace System Plan, which is the multi-year effort to modernize the air traffic control system, has fallen well behind its earlier schedules. How could you, as Administrator, work to ensure that the facilities and equipment are delivered in a timeframe that will provide the savings that have been promised?

Answer. While I have yet to receive an in-depth briefing on the NAS Plan and its schedule, I believe that my experience in the management of large, complex technological programs will assist me in the effective oversight of NAS Plan management.

I will place special emphasis on sound program management techniques, on a complete understanding of the work breakdown structure of individual program elements, on the use of critical path management tools, on the accountability of the Systems Engineering and Integration contractor, and on an expedited procurement process wherever possible. Additionally, I will insist on realistic schedules, measurable milestones, and the ability to adapt to change within the NAS Plan.

Question 20. The National Transportation Safety Board recently recommended that, because of airspace congestion, the FAA should restrict summer flights to ensure safe movement of aircraft. What are your views on the need to restrict flights? Do you believe that the FAA can handle unlimited levels of air traffic?

Answer. I do not believe that the FAA, nor the existing airport infrastructure, can handle unlimited levels of air traffic. I do believe, however, that as long as FAA adheres to existing flow control procedures, there should not be a necessity to further restrict air commerce, as those procedures are designed to provide margins of safe operations. Reaching performance limits (i.e., saturation in certain air sectors) should not be equated to reaching safety limits, and while peak hour demand will continue to cause departure delays, I do not advocate airborne holding nor will I compromise the margin of safety in an effort to reduce delays. As Administrator, I will take all NTSB recommendations seriously and will not hesitate to impose whatever temporary procedures may be necessary until safety can be verified.

Question 21. The Committee has heard of numerous instances where FAA regions have been given little, if any, discretion with respect to penalties on minor violations by pilots. In your view, what is the appropriate relationship of FAA headquarters with the regions?

Answer. FAA headquarters establishes the policy of the FAA, and the FAA regions implement that policy and conduct the operations required to provide a safe and efficient civil aviation infrastructure for the Nation. Enforcement of FAA regulations has not always been consistent from region to region, and it is appropriate for FAA headquarters to ensure that the enforcement of FAA policy and regulations throughout the regions is consistent and fair. In an effort to gain consistency, however, it would not be my intent to direct the regions to unreasonably enforce any of the FAA's rules and regulations. The role of headquarters is to provide balance, support, and appropriate oversight to the regions as they enforce FAA policy.

POSTHEARING QUESTIONS OF SENATOR WILSON AND THE ANSWERS

Question 1. Should the federal government mandate the installation of TCAS II over the protests of commercial pilots who have to use the system, rather than increase the federal commitment to developing TCAS III, which all parties agree is the preferable collision avoidance system?

Answer. One of the early actions I intend to take, if confirmed as Administrator, is to review the FAA's collision avoidance system to validate, in my mind, the approach that has been taken. My assessment will take into account both the technical aspects of the system and the proposed regulatory framework. I assure you that I am mindful of the expressed concern that regulatory action should await the completion of TCAS III, but I believe it is also important to evaluate and weigh heavily the safety benefits that result from early introduction of an effective collision avoidance system into our national air transportation system.

Question 2. The skies above Southern California are the most crowded in the nation. What steps, including those dealing with transponders, TCAS equipment, and more modern ground tracking equipment, should the FAA take to make those skies more safe?

Answer. I believe firmly that a systems approach must be taken to address complex issues such as airspace management. To that end, it is my view that continuing improvements are needed in a variety of areas to reduce the threat of midair collisions in heavily used airspace. I support the ongoing approach taken by the FAA to simplify TCA airspace, and to require greater use of transponders. These measures make the jobs of pilots and controllers easier. There is also a need to continue educational programs for both pilots and controllers, and to improve training in this key area. Aggressive efforts must also continue to upgrade air traffic control equipment and software, and to refine the basic air traffic procedures employed in the system. Finally, more analysis must be conducted to define where, how, and why operational errors, near midair collisions, and unauthorized airspace incursions occur. With a better understanding of these occurrences we can better tailor solutions to these problems.

Question 3. Could the FAA operate more efficiently (and thus make the skies more safe) if the organization were either an independent agency or were off-budget, or both?

Answer. As I indicated during my confirmation hearing, I believe that it is premature to conclude that structural changes are needed in the way the FAA operates prior to the results of the Aviation Subcommittee's hearings on this topic and the completion of the Byrd Commission's examination of this issue. At this juncture, it is my conviction that firm leadership and commitment within the FAA and by others with aviation leadership roles in the Congress, the Executive Branch, and the aviation community should enable the accomplishment of the important funding and management objectives which have resulted in a perceived need by some to restructure the FAA and the budget process.

U.S. Department
of Transportation
**Federal Aviation
Administration**

Office of the Administrator

800 Independence Ave., S.W.
Washington, D.C. 20591

AUG 26 1987

The Honorable Ernest F. Hollings
Chairman, Committee on Commerce, Science
and Transportation
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

I am pleased to enclose my responses to your July 15 questions, as well as those submitted by the Honorable Edward R. Roybal.

If I can be of further assistance, please let me know.

Sincerely,

Allan McArtor

T. Allan McArtor
Administrator

Enclosure

1. The National Transportation Safety Board has worked with the FAA during its accident/incident investigations through the FAA's Office of Aviation Safety, particularly with the staff of the Accident Investigation Division. Do you intend to continue the FAA's support of the NTSB accident investigation activity as outlined in the existing Memorandum of Understanding between the two agencies?

ANSWER:

Yes, the FAA will continue to cooperate fully with and support the National Transportation Safety Board in its aviation accident investigative efforts to determine probable cause. This approach is consistent with the fact that the FAA must also conduct its own investigation to satisfy the mandated responsibilities of identifying and correcting safety deficiencies immediately when discovered.

2. It is my understanding that the NTSB has encountered difficulties in obtaining the cooperation of the FAA's air traffic service in past cases in spite of the intended role of the Office of Aviation Safety. Recently assurances were made that this problem would be resolved. Do you intend to continue the FAA's efforts to ensure cooperation between the FAA air traffic service staff and the NTSB? Will you continue to provide notification of accidents and incidents to the NTSB, as well as the services of FAA facilities and staff to the NTSB to use as a part of its investigations?

ANSWER:

It is my intention to fully cooperate with the NTSB in the interest of furthering aviation safety. To this end, we will continue to provide the services of our facilities and staff to support their investigations.

I am not aware of instances in which the FAA has failed to cooperate with the NTSB; instead, our failure to properly communicate differing priorities has, perhaps, led the NTSB to believe that we were less than fully responsive in some instances. Specifically, with regard to the Air Traffic Service, our priority remains the safe and efficient movement of air traffic, even after an accident or incident. The airports and airways do not close after an accident, thus, our personnel continue to provide service to the users of our system. Our system cannot simply be shut down for the duration of an investigation. We do, however, endeavor to support the needs of the NTSB while maintaining the integrity of the air traffic system.

It is my intention to maintain open communications with the NTSB in order to preclude future misunderstandings. Additionally, I will monitor the responsiveness of all FAA elements in order that we may provide the highest levels of support to this important NTSB function.

3. DOT officials recently announced that FAA will expand the contracting of air traffic control services at low activity Level I control towers beyond the 14 already in the program. I strongly believe that this program has increased safety margins at smaller airports at a reduced cost to taxpayers and aviation users. What are your thoughts on the continuation of the contract tower program?

ANSWER:

The FAA plans to continue the low activity control tower program. Action was initiated in February to review and renew existing contract operations and to implement the new national guidelines on liability protection. This should be completed in the next few months.

Additionally, this year the FAA is commencing an in-depth review of low activity control towers, particularly at facilities that do not meet criteria for continued FAA operation, to determine their qualifications for inclusion in the contract tower program. Control towers that have been temporarily closed will be included in this review process if they have not been reviewed recently. Each facility will be evaluated based on traffic activity, a site-specific benefit/cost analysis, and a detailed review of special operational factors unique to the airport. Upon completion of each in-depth review, a facility's candidacy will be determined and appropriate action initiated.

This will be an ongoing effort with annual reviews of existing and candidate sites to assure that funding is commensurate with benefits realized. This program will assist the FAA in focusing its limited resources where they can do the most good in ensuring a continued safe air traffic control system.

4. In 1985, DOT completed a rulemaking that gave away airport operating rights to the incumbent airlines at the four High Density airports. The Senate overwhelmingly voted to overturn this flawed rule because it was bad public policy, bad economics, and bad for the air transportation system. Today, it is clear from the record airline delays that DOT's buy-sell rule has done little, if anything, to alleviate the problem of excess demand at the high density airports. Do you support the continuation of the buy-sell rule, and if so, what benefits have you seen it providing?

ANSWER:

I do support the continuation of the "buy-sell" rule. The benefits anticipated have, in fact, been realized. First, the rule has minimized governmental involvement in the allocation process. As a result, the carriers at the high density airports have had some certainty as to future operations and have been able to plan accordingly. Second, the rule has given the carriers a great deal of flexibility in shifting or adding operations. The carriers have been able to trade or lease slots for short periods of time to make immediate changes in their schedules or to modify current schedules. In some cases, this involves transactions for just a few days or weeks to meet seasonal demands. Third carriers (particularly new entrants) have utilized their slots as collateral to obtain loans to finance equipment purchases or to meet operational expenses. Fourth, the use-or-lose requirements have eliminated "pocket" slots and, as a result, all slots are being utilized, increasing slot availability.

5. In the FY 1986 Continuing Resolution, Congress directed the FAA not to hold certificated airports responsible for the safety of tenant fueling operations. Over a year has passed since this congressional direction was given the FAA and still this issue has yet to be resolved satisfactorily. What is your opinion on this issue?

ANSWER:

I believe that the FAA has done its part toward the resolution of this issue. The proposed revision to Part 139 of the Federal Aviation Regulations, which included modified provisions concerning tenant fueling operations, has been approved by the Office of the Secretary of Transportation and is currently being reviewed by the Office of Management and Budget (OMB).

I am satisfied that this option selected for the FAA's rule appropriately reflects public and Congressional sentiment and input.

6. In a 1981 report to Congress, the National Institutes of Health (NIH) stated there was no medical or scientific evidence to support age 60 or any other specific age for the mandatory retirement of airline pilots. The report further stated that the persons involved in that study could not agree on specific tests to determine which airline pilots could be permitted to continue to fly after that age.

Since that time, however, many of those involved agree that newly developed technology now makes it possible to reliably test individuals to determine which could be allowed to continue flying, and several have participated in the development of such an examination pool.

Bearing this in mind, would you be willing to rely on the opinion of these experts in determining which pilots could be permitted to continue flying after reaching age 60? If not, on whom would you rely in making such a determination?

ANSWER:

Following issuance of the report by the National Institute on Aging Panel on the Experienced Pilots Study in 1981, the FAA issued an Advance Notice of Proposed Rulemaking (ANPRM) requesting comments on a suggested program of data gathering that might permit certain air carrier pilots to fly beyond age 60. Comments were received from recognized specialists stating that practical, reliable, valid measures of human performance remain an elusive goal and that it was not at all apparent how a definitive, scientifically sound experimental approach to the age 60 problem could be devised. In addition, comments from the medical profession indicated that a program of data gathering or physical examination would not provide meaningful information until more precise methods of detecting physiological changes brought on by aging are developed. On the basis of these comments, it was concluded that the age 60 limitation should be retained and the ANPRM was withdrawn on March 30, 1984.

While attempts have been made since that time to develop an evaluation protocol for the assessment of air carrier pilots who have reached their 60th birthday, those efforts have not identified new and advanced diagnostic and testing techniques that were unknown to the NIH panel when it issued its report in 1981. Furthermore, the protocols have not provided criteria that could be used in determining when an individual should no longer be permitted to pilot an aircraft in air carrier operations.

Even though some experts believe that a reliable test protocol can be developed, other experts disagree. Therefore, until a general consensus is reached within the medical and scientific communities, and FAA can be satisfied that a new approach will adequately address the safety needs of the travelling public, the Age 60 Rule should be retained in its present form as a necessary safety rule.

7. At the present time, there are more than 500 pilots over age 60 who are now serving as flight engineers in commercial airline operations. Most of these pilots are former airline captains.

In light of the critical shortage of experienced replacement pilots facing the aviation industry today, do you feel the traveling public and the airline industry would be better served by retaining these highly experienced pilots in their initial position of captain or co-pilot?

ANSWER:

We have no hard evidence based on accident/incident data, surveillance, or inspections that would indicate any problems attributable to the experience level of airline pilots. Current licensing prerequisites as well as pilot training and checking requirements serve to define the standards that airline pilots must meet. We believe these measurements are effective in ensuring a high level of safety to the flying public. Although the Age 60 Rule continues to be assessed by the agency, we see no measurable safety benefit in returning retired pilots to the captain or co-pilot positions.

GERALD J. McKIERNAN, TO BECOME ASSISTANT SECRETARY FOR CONGRESSIONAL AND INTERGOVERNMENTAL AFFAIRS, DEPARTMENT OF COMMERCE; AND BERNARD WAYNE VANCE, TO BECOME GENERAL COUNSEL; AND DALE A. PETROSKEY, TO BECOME ASSISTANT SECRETARY FOR PUBLIC AFFAIRS, DEPARTMENT OF TRANSPORTATION

WEDNESDAY, JULY 8, 1987

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The committee met, pursuant to notice, at 9:43 a.m., in room SR-253, Russell Senate Office Building, Hon. John D. Rockefeller IV, presiding.

Staff members assigned to this hearing: Sally Sussman and Sheryl Webber Washington, professional staff members; Harris Livingstain, staff counsel; and Macky Ayers, minority professional staff member

Senator ROCKEFELLER. Good morning, Senator Cochran.

I am very pleased in opening these nominations hearings to introduce Senator Cochran from Mississippi who is not only a much respected colleague, but a very good friend. It is an honor for us here on the Commerce Committee, Senator, to have you introducing Mr. Wayne Vance. We will be glad to have you proceed to do so.

STATEMENT OF HON. THAD COCHRAN, U.S. SENATOR FROM MISSISSIPPI

Senator COCHRAN. Thank you very much, Mr. Chairman. It really does give me a great deal of personal pleasure this morning to be able to introduce to you and to the committee a native of my State of Mississippi, Wayne Vance, who has been nominated to be General Counsel of the Department of Transportation. He most recently has been serving as Chief of Staff at the Department of Transportation for Secretary Dole.

Before that it was unique and kind of ironic for me to observe how closely his background at the University of Mississippi paralleled my own. He graduated from the undergraduate school in 1969. He went into the Navy as a commissioned officer and served on the staff of the commander of the anti-submarine forces in the

Atlantic fleet for three years. Then he returned to the law school. He graduated with honors. He served as editor in chief of the Law Journal. He was second in his graduating class.

Then he entered the honors program at the Department of Justice. He served as a trial attorney there in the Civil Division, handling a wide range of litigation at the Department. Since then he has had experience in the private practice of law with Alston, Miller & Gaines here in Washington, DC. He has also moved back to the Department of Justice since then and was a deputy assistant attorney general in charge of the Torts Division at the Civil Division.

So, as you can see, Mr. Chairman, he has had a lot of career compressed in a very short period of time. We are very proud of him in my State of Mississippi for the record that he has made and for the credit that he reflects on our state. So, it is with great pleasure that I not only introduce him to you this morning, Mr. Chairman, but enthusiastically recommend him to the committee for this very important position at the Department of Transportation.

Senator ROCKEFELLER. Thank you very much, Senator. Your endorsement is important not only to this particular member, but I'm sure to the entire committee, and we would be very glad to have your testimony, Mr. Vance, if you would like to give it to us now.

Mr. VANCE. Thank you.

Senator COCHRAN. Mr. Chairman, I hope you will excuse me since there is another hearing that I need to attend.

Senator ROCKEFELLER. I certainly will.

Senator COCHRAN. Thank you very much for permitting me to introduce Mr. Vance.

Senator ROCKEFELLER. It's an honor.

Senator COCHRAN. Thank you.

[The biographical sketch follows:]

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

(If more space is needed, please use attached REMARKS sheet)

A. BIOGRAPHICAL DATA

1. Name: Vance (Last) Bernard (First) Wayne (Other)

Address: 211 North Pitt Street (Current residence)
Alexandria, Virginia 22314

U.S. Department of Transportation (Business)
400 7th Street, S.W.
Washington, D.C. 20590

2. Position to which nominated: General Counsel, DOT

Date of nomination: April 9, 1987

3. Date of birth: May (month) 31 (day) 1947 (year)

Place of birth: Meridian, Mississippi

4. Marital status: Married

Full name of Spouse: Beth Karin (Kuntz) Vance

5. Names and ages of children: None

6. Education:

Institution	Dates attended	Degrees received	Dates of degrees
Univ. of Mississippi	1965-1969	BBA	1969
Univ. of Mississippi School of Law	1972-1975	JD	1975

7. Employment record: List all positions held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

From	To	Name of employer	Address	Type of work
1969	1972	U.S. Navy	Newport, Rhode Island Norfolk, Virginia	Naval Officer
(1972 -	1975	Attended Law School)		
1975	1977	U.S. Dept. of Justice	10th & Constitution Ave., NW, Wash., DC 20530	Trial Attorney
1977	1982	Alston, Miller & Gaines	1800 M Street, N.W. Wash., DC	Attorney
1982	1985	U.S. Dept. of Justice	10th & Constitution Ave., NW, Wash., DC 20530	Deputy Assistant Attorney General
1985	Present	U.S. Dept. Transportation	400 7th St., SW Wash., DC 20590	Chief of Staff to Secretary of Transp.

8. Government experience: List any experience in or direct association with Federal, State, or local governments including any advisory, consultative, honorary or other part-time service or positions.

1969-1972	U.S. Navy	
1975-1977	Trial Attorney	U.S. Department of Justice
1982-1985	Deputy Assistant Attorney General	U.S. Department of Justice
1985-Present	Chief of Staff to Secretary of Transportation	U.S. Dept. of Transportation

9. Political affiliations activities: List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last 10 years.

Various contributions of $25-$50 to Republican candidates prior to 1982 of which I retained no records.

1982-1987 -- Various payments of $25-$100 for attendance at formal Reagan Administration functions.

1986 -- $25 to Linda Chavez for Senate.

STATEMENT OF BERNARD WAYNE VANCE

Mr. VANCE. Mr. Chairman, before I begin, I would like to thank Senator Cochran very much. I have been away from Mississippi for a few years, but it remains very much my home state. I am very proud to have the Senator from Mississippi introduce me.

Also before I begin, if I may, I would like to introduce my wife Beth and her mother Karin who have joined me this morning.

Senator ROCKEFELLER. We are glad to have them.

Mr. VANCE. Thank you.

Mr. Chairman, I have submitted a short statement which I would like to have included in the record.

I am very gratified that President Reagan has nominated me for this position. I am indeed honored that the Secretary would have me serve in this capacity.

During the past two years I have enjoyed serving as her Chief of Staff and will enjoy continuing to work to implement this Administration's and the Secretary's policies.

During my two years at the Department of Transportation I have been impressed by the leadership of the Department and by the caliber of staff and employees who serve there. I have been particularly impressed with the professionals in the office of General Counsel and look forward to the opportunity to work with them on the many important issues facing the Department.

The scope and complexity of the operations and the issues at the Department of Transportation are immense. My experience there should be of great assistance to me in undertaking the responsibilities of the General Counsel to address these issues. Moreover, my earlier experience at the Department of Justice and in private practice should serve well as background.

The Department has made enormous progress over the past several years on many fronts. My top priorities as General Counsel will be to serve as advisor and legal counsel to the Secretary in the continued pursuit of the many initiatives yet to be completed. I expect to be particularly active in the continuing implementation of safety priorities. There are many important issues yet to address. I look forward to working with Secretary Dole, the Department's staff and employees, and the Congress in addressing these issues.

Senator ROCKEFELLER. That's it?

Mr. VANCE. That's it, sir. If I can respond to any questions, I will be happy to try.

Senator ROCKEFELLER. A number have been submitted to you, and you have responded to a number of those.

Mr. Vance, there is a question as to the constitutional nature of drug testing. And this committee has turned itself inside out on that issue. We have had some very strong, sometimes emotional votes and discussions on the issue. Is it your view that random drug and alcohol testing will stand up to a constitutional test? Or do you have any comment on that?

Mr. VANCE. I believe in the circumstances of transportation workers that S. 1041 will stand up to constitutional analysis. It typically is an analysis involving the Fourth Amendment. Most lower courts have found drug testing is a search, a seizure. But while some lower courts have found that drug testing involves search and seizure and that it is too great an intrusion, the Courts of Appeals consistently—and in two cases involving random testing, although not of transportation workers—have found that it is constitutional because of the public interest involved, because of the particular circumstances of those workers.

I think that, in the situation we are dealing with at the Department of Transportation, because of the potential cataclysmic consequences of an accident that might have been caused by drugs, that in all probability the courts would find it constitutional, indeed.

Senator ROCKEFELLER. I thank you.

An issue of concern to this particular member of the committee has to do with the implementation of the 1980 Staggers Act by the Interstate Commerce Commission. I am quite sure you are familiar with that act, but there has been a good deal of question with respect to whether or not the Interstate Commerce Commission has recognized the particular plight of what is known as captive shippers, that is those shippers who have no other recourse to competitive rail transportation other than a single line.

It appears in testimony that although the overwhelming percentage of contracts or dealings among railroads and shippers in this state are, as contemplated by the Staggers Act, in contract form or in proper form, that approximately 10 to 15 percent of the captive shippers are paying the freight. And when I say that, I mean literally the entire profit picture of railroads.

Now, I don't expect you to be intricately versed in the Staggers Act, but do you have instincts or feelings which would cause you to advise the Secretary of Transportation that the Interstate Commerce Commission ought to become a part of the Department of Transportation. I believe it is the Administration's position that this consolidation would be appropriate. In fact, the Chairman of the Interstate Commerce Commission has suggested such an action.

Do you think that the Interstate Commerce Commission is implementing properly the Staggers Act of 1980 as you understand it?

Mr. VANCE. I will have to admit, as the chairman observed, that I am not intimately familiar with all of the Staggers Act or all of the latest proposals. But I have read some analysis, and with great interest.

I know that the Department of Justice testified recently that there have been some changes, and changes particularly in some of the procedures, that would appear to give greater opportunity for those types of shippers to pursue remedies at the Commission. And the Department of Justice recommended that a period be allowed to see if those changes would rectify the situation somewhat.

I do find the question interesting, and it is one that I would intend to look at and work closely with the committee or its staff if it should be asked of me.

Senator ROCKEFELLER. Your mind is not fixed on the question of whether the Interstate Commerce Commission ought to remain independent or to be in the Department of Transportation. Is that not a subject on which you prefer not to comment.

Mr. VANCE. Well, the proposal, as I understand it, would be that the Interstate Commerce Commission, were it to be sunseted, would be folded in part into the Department of Transportation.

And that I believe is something that we would support, in that it in part would be put at DOT. The antitrust functions I understand that would go most probably to the Department of Justice. There would be some other functions that might go elsewhere.

Senator ROCKEFELLER. Thank you.

A year ago the Congress took a significant step to try to improve the safety record of the motor carrier industry by enacting the Commercial Motor Vehicle Safety Act of 1986. Do you believe the Department is making progress toward improving safety in the motor carrier industry?

Mr. VANCE. I know that it is an absolute top priority of Secretary Dole, and I know that it comes up probably not weekly but daily in some form—what is being done and how it is being implemented. I know that she worked to implement the one-license system as quickly as it could be done. And in fact, it was implemented I understand as of July 1 this year. I think it has a great deal of attention at the Department. As I said, it is one of her priorities, and I certainly would make it one of my priorities.

Senator ROCKEFELLER. Mr. Vance, the Office of General Counsel is composed of eight branches, each responsible for different aspects of transportation law. Now, your experience as chief of staff in the Department of Transportation and as the attorney at the Department of Justice gives you a lot of experience. Could you sort of lay out for me how you think that that experience prepares you for this new position which you seek?

Mr. VANCE. Yes. I think I have had experience that relates directly to what I will be doing at the Department. There will be some areas perhaps where I have not had complete experience.

When I came to the Department of Justice for the first time, I practiced for two years in the specialty of admiralty law. As a litigating attorney, I think I learned a great deal about the shipping industry, about the maritime industry, about the operational aspects of that industry.

At the private firm where I was, I worked in litigation concerning specifically railroads, some issues there concerning financial and bankruptcy aspects, and some competitive aspects of that industry.

Later, at the Department of Justice I again had experience in admiralty practice. I also had as a part of my responsibility the section that deals in aviation tort litigation. I also had experience there dealing with hazardous exposures, which is certainly a concern at the Department of Transportation.

In the last two years I have been exposed I think probably to every nook and cranny of the Department in some way or another. Although I haven't handled every issue there or dealt with every legal aspect of all questions, I think I have had quite a broad experience at the Department that will help me in this next assignment.

Senator ROCKEFELLER. There have been a lot of complaints, obviously, over the last number of months—number of years, I guess—with respect to the one-time performance of airlines and as well as the quality of service offered by them. Now, you are going to be right in the middle of that in your new position, if confirmed. It is one of the most aggravating consumer issues.

Do you believe that the Department's work with respect to attending to those consumer complaints has been performed adequately? Do you believe the Secretary is doing all she can. As a general counsel, would you contemplate any action should the problem not clear up?

Mr. VANCE. It is difficult I guess to separate your role as possibly the General Counsel of the Department of Transportation and your situation as a consumer, because I have experienced the same problems, and they are indeed aggravating. I experienced the same problems this past weekend. I'm sure everyone can relate stories about problems with airport delays and service shortcomings.

There are a number of undertakings that are going on at the Department now both in rulemaking and operational aspects to try to have both an immediate approach and a long-range approach to delays in the operation of the aviation system.

High on the list and one that I would be very much involved with is the rather expansive rulemaking that the Secretary has announced, which will look at the possibility of the publishing of performance data to consumers, something that may have a considerable effect on the performance of the industry and a number of other aspects that could be pursued under our rulemaking authority.

There is the possibility too, that is suggested in the rulemaking, of seeking legislative authority to seek peak-period pricing, or to give to the FTC some authority over the advertising aspects of airlines, to more closely watch that. There is also the flight delay investigation that is ongoing and has expanded to other airports to determine whether in fact there have been some deceptive practices in scheduling by airlines at those airports.

I intend to be very much involved in those. It is going to certainly be at the top of my list as something to become involved in and as things to accomplish. It will, indeed, be one of the top priorities.

Senator ROCKEFELLER. That's good. That's fine.

Mr. Vance, I don't have any other questions of you. You are an impressive person with an impressive background. I don't think you are going to have any problems with this committee. You are certainly not going to with this particular member.

As I indicated earlier, a number of questions have been submitted to you. You have answered them. There may be more coming. But I wish you well, and I thank you for not only your presence but of your wife and her mother. Thank you, sir.

Mr. VANCE. Thank you, Senator.

[The questions and answers follow:]

PREHEARING QUESTIONS OF THE MAJORITY AND THE ANSWERS OF MR. VANCE

QUALIFICATIONS AND BACKGROUND

Question. As former Chief of Staff to the Secretary and trial attorney, what past experiences do you hope to bring to the office of General Counsel which will enable you to execute the duties of the position?

Answer. As Chief of Staff to the Secretary I have become familiar with the structure and workings of the immediate offices of the Secretary and the Assistant Secretaries and with each modal administration within the Department. My service at the Department has allowed me to become familiar with transportation issues facing the Administration and the industry. As a trial attorney, I have gained experience dealing with legal issues, administrative law, legislation, and litigation. I have gained experience in managing, directing and allocating the resources of a large group of attorneys and support staff.

Question. In your capacity as Chief of Staff, did you have the opportunity to work with the General Counsel's office in conducting or managing legal analysis?

Answer. As Chief of Staff I often had the opportunity to work with the General Counsel and his staff concerning questions of policy and legal analysis.

Question. How do you think your background as a trial attorney at the Department of Justice and in the private sector makes you qualified for this position?

Answer. As Deputy Assistant Attorney General I gained experience working with major issues of law and litigation and in managing a large group of attorneys and staff. As a trial attorney, I have had experience in areas of practice concerning the maritime, aviation and railroad industries; matters involving exposure to hazardous materials; and issues of legislation and administrative law. This background, together with my experience at the Department of Transportation, should provide considerable substantive and managerial experience to draw on as General Counsel.

Question. What type of exposure have you had in analyzing specific legal problems that are unique to the transportation industry?

Answer. As a trial attorney at the Department of Justice, I specialized in admiralty law. In private practice, among other things, I was involved in litigation concerning competitive, financial, commercial, and safety issues in the railroad and aviation industries. As a Deputy in the Civil Division at the Department of Justice I managed the litigation of liability related issues in the aviation and maritime areas and areas concerning toxic exposure. At the Department of Transportation, I have been exposed to legal issues in each of the major areas of transportation over which it has jurisdiction.

POLICY ROLE OF GENERAL COUNSEL

Question. Are there any issues within the field of transportation which you would like to establish as high priority areas for legislation or analysis by the General Counsel's office?

Answer. In general, I would expect to be guided by the priorities of the Secretary, which have been to emphasize transportation safety as the foremost area for federal government resources. In the economic realm, it would be critical to maintain the deregulation gains that have been made in aviation, rail, water, and motor transportation.

One legislative and policy area in which the General Counsel's Office should be heavily involved is in the development of legislation, policy, or programs dealing with authority or requirements for controls on alcohol and drug use by transportation workers. Legal issues are central to this subject, and I would expect to play a major role in developing and implementing such programs, if confirmed.

Question. What role do you hope to play as General Counsel in the formulation of transportation policy?

Answer. My contributions would flow from the traditional role of legal advisor and counselor, with the emphasis being on assuring that Departmental initiatives will meet legal standards and be broadly defensible and consistent with the Department's statutory mandate. Of course, these considerations often have a great bearing on policy options, and I would not view my role as being strictly limited to justifying policies once they have been determined by others.

As one example, the issuance and amendment of safety regulations are essential to achieving the Secretary's transportation safety goals, and the General Counsel's role in their development is critical. The Department's regulations must be crafted to meet a demonstrated safety need effectively, on a clearly articulated record, and in a manner that does not impose unnecessary burdens on the affected industry or the economy. Numerous judgments must be made in this process that partake of policy as much as legal advice. I would expect to play a major role in these policy matters in furtherance of the Secretary's goal of improving transportation safety.

DRUG AND ALCOHOL TESTING

Question. Mr. Vance, this Committee recently reported out the Transportation Employee Safety and Rehabilitation Act of 1987. However, concerns have been expressed regarding its constitutionality. What is your position? Do you believe it is constitutional?

Answer. I am familiar with S. 1041, the Transportation Employee Safety and Rehabilitation Act of 1987, primarily because of the Secretary's interest in promoting a drug-free transportation workplace and her strong endorsement of the bill before this Committee February 20.

I believe that S. 1041's provisions would be found constitutional if challenged. In the context of the workplace, there is no recognized, absolute expectation of privacy under the Fourth Amendment that precludes an employer from conducting reasonable inquiries into an employee's fitness for duty (e.g., fingerprinting of applicants). The issue is whether a legitimate purpose of the employer in requiring testing of an employee outweighs the individual's justifiable privacy expectations. S. 1401 has been careful to circumscribe its testing mandate in the rail and aviation areas to those FAA and industry employees with "safety-sensitive functions", as determined by the Department. In the motor carrier area, the bill mandates testing for motor vehicle operators, who clearly have a safety-sensitive function.

The constitutionality of the legislation will be judged from the vantage point of the public interest in a safe transportation system. This public interest is immense, particularly in the aviation and rail environments, where the passenger must give over his or her physical safety to the aircraft or train crew completely.

The bill was reported from Committee with recognition of the Department's experience gained from the one-year-old Federal Railroad Administration rule, providing pre-employment, post-accident, and reasonable cause testing. This should assist in overcoming arguments that there are insignificant data on which to base random testing, or that less intrusive methods were not tried first. We also have in place and are gaining experience and data from the periodic drug testing of certain safety-sensitive employees in the Federal Aviation Administration. This program went into effect in February 1987 and withstood a preliminary injunction challenge (*Ass'n of Air Traffic Specialists v. Dole* (D. Alaska March 27, 1987)). The Committee also noted this testing program in deciding to mandate further testing.

Overall, defense of drug testing programs recently has been successful in the federal courts. Although certain Federal District Courts have viewed random testing as unconstitutional, no Federal Court of Appeals has found drug testing, including justified random testing, to violate the Constitution. In fact, the appellate courts have reversed lower courts' findings that such programs are unconstitutional. The Eighth Circuit held in January 1987 in *McDonnell* v. *Hunter* that random testing of prison guards did not violate the Constitution. The Third Circuit upheld random testing of horse race jockeys in New Jersey last summer.

On March 31, the Supreme Court delivered a plurality opinion (*O'Conner* v. *Ortega*) regarding public employees' right to privacy in their offices, desks, and file cabinets at work. Although Fourth Amendment drug testing was not addressed, the Court did indicate that, to pass Fourth Amendment muster, the government must be able to justify a search at its inception. This burden can be met in the case of safety-sensitive transportation personnel.

HAZARDOUS MATERIALS TRANSPORTATION

Question. Hazardous materials safety regulation is an area which continues to command attention. Recently, the Surface Transportation Subcommittee held hearings on this subject. There is particular interest in the relationship between Federal regulation and safety and local law in this area. What is your view concerning the Federal role in regulating transportation of hazardous materials?

Answer. I agree with the Department's position that a strong federal role in some areas of the regulation of hazardous materials is necessary, while other areas are best regulated by state and local governments. A strong federal role is necessary in certain areas, such as placarding, in order to promote interstate uniformity, and thus, enhance safety. However, in other areas, such as highway routing, jurisdiction is more appropriately shared with states when exercised consistently with standards established by the Department.

AIRLINE CONSUMER COMPLAINTS

Question. As you know, consumer complaints and airline delays have reached record levels. The complaints center around the rights of consumers concerning lost or damaged luggage, being bumped from their flight without adequate compensation or reasonable alternatives, and being misled concerning arrival and departure times. Consumers have also complained that certain fares as advertised are unavailable. Many have commented that the airlines are not fulfilling their contractual obligations. Have you formed an opinion as to the legal nature of these complaints? Do you believe the airlines are practicing deceptive advertising?

If legislation is not passed to resolve the consumer concerns, what course would you pursue as General Counsel to rectify this problem?

Answer. There is a problem in the area of services being provided to aviation consumers; I think that the managements of most major airlines have conceded as much directly or indirectly. The existence of the problem has been made apparent at the oversight hearings held by this Committee, the Senate Judiciary Committee, and several House Committees.

More than one factor is to blame, and a combination of initiatives may best address the problems. Putting aside the delays, cancellations, and missed connections that are occasioned by bad weather or other "uncontrollables" and the short-term problems resulting from merging different corporate "cultures", important steps can be taken to address the controllable causes, such as scheduling practices of carriers as well as their adherence to federal regulations regarding quality of service and information to the passenger. Legislative authority exists and is being used to undertake a wide range of initiatives.

On June 4, the Secretary issued a notice of proposed rulemaking asking for public comment on possible regulations governing a number of these issues. The comment closing date is July 10. The Department seeks views on requiring disclosure of flight delays and cancellations, general service quality (including baggage handling, denied boarding, and the availability of discount seats), and more accurate Computer Reservation System displays, or requiring publication of "performance levels" that would put a carrier on notice of what shortfalls would lead to enforcement action. The NPRM also sought comment on two legislative initiatives: New authority to permit "peak hour pricing" of airport access in order to encourage more off-peak travel, and a possible shift of airline consumer authority from DOT to the Federal Trade Commission in appropriate areas such as advertising practices. I should review the comments to the NPRM before offering an opinion concerning the wisdom or methods of implementing these proposals, but as General Counsel I would assist the Secretary in pursuing all appropriate initiatives.

In other areas, the Secretary has discretely used antitrust immunity to facilitate carriers' rescheduling hundreds of flights at some major hub airports in order to reduce the congestion during peak periods. Patterns of scheduling at several major airports, which are currently being investigated by the Department, may be the basis for pursuing enforcement actions if carrier practices violate Section 411 of the Federal Aviation Act (prohibiting deceptive practices).

In response to your question about carriers' contractual obligations to their customers, I am aware of no systematic practice that would suggest that any carrier has intended to deny customers their contractual rights. While the Department has an office to hear complaints from consumers, local courts are available to the consumer to adjudicate such contractual claims. Where carrier practices contravene Section 411 and constitute a pattern of consumer rule violations, the Department has a greater role. For example, the Department has just concluded a settlement with Continental Airlines which included $250,000 in penalties and a number of separate corrective steps to ensure that the carrier meets its obligations to the consumer.

AIRLINE CONSUMER COMPLAINTS

Question. Due to allegations that airlines have engaged in unfair and deceptive trade practices, a bill was recently introduced which proposed the transfer of airline consumer issues to the Federal Trade Commission. As General Counsel, how would you advise the Secretary concerning this proposal?

Answer. I am aware of two proposals to invest jurisdiction in the Federal Trade Commission over airline advertising—Senator Lautenberg's suggested amendment to the FTC reauthorization bill, which he chose not to offer, and Rep. Wyden's proposal for criminal penalties for misleading airline advertising (H.R. 2426). Neither proposal shifted the Department's Section 411 authority under the FAAct to regulate aviation consumer affairs.

The Department has a rulemaking proposal pending that seeks comment on the concept of shared jurisdiction with the FTC on airline consumer matters. Accordingly, I will keep my comments general. The FTC has considerable expertise in this area, and its involvement would be useful. At the same time, considerations such as some international aviation aspects of consumer issues (e.g., charters, baggage handling) are related to other Departmental responsibilities and suggest the Department should retain jurisdiction in this area. In any case, it is important to avoid overlapping responsibilities.

SEVERANCE OF THE AIR TRAFFIC CONTROL RESPONSIBILITIES FROM THE FAA

Question. Recently, a bill was introduced which is designed to transfer the air traffic control responsibilities of the FAA to a public corporation. Advocates believe that this would free the air traffic control system from the uncertainties of the federal budget process. As General Counsel, how would you advise the Secretary on this matter?

Answer. Senator Inouye's and Senator Steven's bill (S. 1159) embodies the Air Transport Association's latest suggestions for establishing a free-standing, user-fee supported government corporation to operate the nation's air traffic control system free of federal budget, personnel, and contracting constraints.

The Department is presently undertaking a study of the efficacy of privatizing broad FAA functions, and the Aviation Safety ("Byrd") Commission is also expected to look at privatization in determining the most appropriate organizational approach to ensuring aviation safety. The Department supports and has implemented privatization policies in a number of program areas; the question with respect to the FAA is especially sensitive, however, because of the safety function which underlies many of the FAA's roles. While this does not necessarily mean that the safety of the system could not be maintained under some form of private sector operation, the mechanism by which such privatization is accomplished and the organization of the succeeding entity would have to be carefully designed to ensure safe operation of the aviation system.

The Department's study will examine a number of proposals on privatization that have been made by such organizations as the Air Transport Association and the Reason Foundation. We expect to complete the study in the first quarter of 1988.

TRANSPORTATION REGULATION

Question. Over the last several years, Congress has passed regulatory reform legislation which has decreased the Federal government's role in regulating transportation. However, many argue that transportation safety has suffered. How do you view your role as General Counsel in assessing the need for increased regulation?

Answer. The issues of transportation economic regulation and transportation safety regulation are separate. Actual experience with the 1978 economic deregulation of domestic air travel, the 1980 partial economic deregulation of freight railroads, and the 1980 partial economic deregulation of trucking, all demonstrate that the safety records of these industries were not adversely affected. Accident data for each of these three modes demonstrate significant reductions in accident rates in the years since deregulation.

I see my role as General Counsel, if confirmed, in assessing the need for any reregulation, as being a participant in analysis of the economic or other policy grounds that might arguably justify reregulation. It is the Department's current view that reregulation is not justified in the aviation and rail areas, and that further deregulation of the trucking industry is justified. I would give each of these positions and all proposals the benefit of my best evaluation.

Question. Are there any initiatives in which you would like the General Counsel involved with concerning the area of transportation regulation?

Answer. Without exception, I would expect the General Counsel to provide legal analysis and counsel in all areas of transportation regulation. In terms of the most immediate areas for regulatory action, I would take a special interest in the areas of programs for the control of alcohol and drug use by transportation workers, the various regulatory safety initiatives, and the initiatives concerning aviation services. As noted with regard to Question 6, many of the considerations in issuance and amendment of effective, defensible rules involve judgments by the General Counsel's Office that are a mix of legal and policy matters.

Senator ROCKEFELLER. Senator Weicker, delighted to see you, sir. I know that you are here to introduce Gerald McKiernan who is nominated to become Assistant Secretary for Congressional and Intergovernmental Affairs at the Department of Commerce. Mr. McKiernan, I would like to have you come forward, but particularly I would like to have Senator Weicker come forward. He is a long-time favorite of mine and I might say also of my wife for reasons of his long and vigorous support of public broadcasting. And any words that you would have, sir, would make a difference to this committee. We welcome you, Senator Weicker.

STATEMENT OF HON. LOWELL P. WEICKER, JR., U.S. SENATOR FROM CONNECTICUT

Senator **Weicker**. Senator Rockefeller, thank you very much for your gracious remarks. It is a great pleasure to appear before you.

I have a prepared statement which I am going to go ahead and read for the record.

I have known Jerry McKiernan really for my entire career in politics. He started off as an assistant to our late dear friend, Stewart McKinney, when Stewart was the minority leader of the State House of Representatives in Connecticut. And he came with Stewart to Washington when Stewart succeeded me in the fourth congressional district seat. He served as Stewart's both press aide and as legislative assistant. And then in 1981 he went to work with Mack Baldrige over at the Commerce Department.

I just can't think of anyone better qualified for the position of Assistant Secretary of Congressional and Intergovernmental Affairs in the sense that Jerry comes from sort of our side of the fence. He has spent the major portion of his time in the legislative branch serving in a very close relationship with the Congressmen and really brings an understanding to this position.

I know that all of us are burdened too frequently I think through both Democratic and Republican administrations with persons who purport to represent administrations and who do a disservice to those administrations by not having that rapport, that empathy with the legislators. I can assure you if Jerry McKiernan gets the job, he will serve his administration well, but he will serve each of us well as far as getting the communication going.

This is a dear, dear friend of mine. This isn't just a pro forma introduction. He is a dear friend of mine. He is just loved in the State of Connecticut and very close, as I say, to both Stewart and Stewart McKinney's family. So, I would hope that in this instance that the confirmation process would move forward expeditiously because I just think that we are going to have somebody that brings back our message to the administration and brings it back in a way that it will be understood and appreciated and acted upon. I just can't say anything too highly on behalf of this very, very wonderful person.

Thank you.

Senator **Rockefeller**. Thank you, Senator Weicker, very much.

Senator Stevens?

Do you have a statement, Mr. McKiernan, that you would like to make?

[The biographical sketch follows:]

A BIOGRAPHICAL DATA

1 Name McKiernan (Last) Gerald (First) Joseph (Other)

Address 3914 Virgilia Street (Current residence) Department of Commerce (Business)

Chevy Chase, MD 20815 Washington, D.C. 20230

2 Position to which nominated Assistant Secretary for Congressional and Intergovernmental Affairs Date of nomination April 10, 1987

3 Date of birth 3 (month) 21 (day) 42 (year) Place of birth New Haven, CT

4 Marital status: married Full name of Spouse: Linda Lehrman McKiernan

5 Names and ages of children Anne Michael 7 months

6 Education:

Institution	Dates attended	Degrees received	Dates of degrees
Clinton Avenue School	1947		
St. Francis Grammar School	1948-55	diploma	1955
St. Mary's High School	1955-57		
Wilbur Cross High School	1957-59	diploma	1959
Southern CT State College	1959-60		
University of New Haven	1961-66	A.S.	1980

7. **Employment record:** **List all positions held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.**

From	To	Name of employer	Address	Type of work
8/65	10/69	Register Publishing Co.	New Haven, CT	Newspaper Reporter
10/69	1/71	Stewart B. McKinney Minority Leader, CT House of Reps.	Hartford, CT	Legislative/Press
1/71	4/81	U.S. House of Representatives Office of Congressman Stewart B. McKinney	Washington, DC	Legislative/Press
4/81	10/83	International Trade Administration Department of Commerce	Washington, DC	Director, Congressional Affairs
10/83	-	Department of Commerce	Washington, DC	Deputy Assistant Secretary

8. Government experience

List any experience in or direct association with Federal, State, or local governments including any advisory, consultative, honorary or other part-time service or positions.

1981-87	Trade Policy Committee, Subcommittee on Congressional Affairs

9. Political affiliations activities:

List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last 10 years.

1984	Eaton for Senate (CT State Senate)	$50
1986	Eaton for Senate (CT State Senate)	$50
1982-84	Various Reagan-Bush Anniversary Committees	$300

14. **Qualifications:**

State what, in your opinion, qualifies you to serve in the particular position to which you have been nominated.

During the last 18 years, I have held positions in, or directly related to the legislative branch of government, at the state and Federal level. After 10 years staff experience in the U.S. House of Representatives and six in Congressional Affairs at the Commerce Department, I believe I have an understanding and appreciation of the legislative process and the ability to determine Members' interests and needs.

STATEMENT OF GERALD J. McKIERNAN

Mr. **McKiernan**. Yes, I do, Mr. Chairman. I do have an opening statement, but before proceeding with it, I think it is worthy of note that I happen to know that the President is in Connecticut today and Senator Weicker was invited to join the President on that trip. And yet, he chose to be here on my behalf and with this committee, and for that I am deeply honored and I really appreciate it.

I am honored to have been nominated by the President for Assistant Secretary of Congressional and Intergovernmental Affairs of the Commerce Department. I am equally gratified to be before this committee. I would add that it is a marvelous opportunity also to serve Secretary Baldrige who I think has developed an outstanding record as a member of the President's Cabinet.

The position—I think Senator Weicker has already alluded to—in my view is unique in that although it is within the executive branch, its principal function, indeed its constituency, is with other branches of government, the Congress, the states and the municipalities. I have a very competent deputy who handles the latter two responsibilities; I intend to focus my attention on the first, and that is the Congress.

The Commerce Department, as you know, Mr. Chairman, is not a single mission agency, and as such 25 committees of the Congress assert some jurisdiction over its many parts. However, we have always viewed the Senate Commerce Committee as the one with the broadest interest in our affairs, our home port, if you will. In fact, my predecessor, Paul Vander Myde, who had considerable Navy background, always use to refer to the Senate Commerce Committee as the "mother ship." And I will view it no differently.

The best way I can serve this committee, Mr. Chairman, is to provide it with timely information from the Department and see to it that the views of the committee members are widely known to all high ranking officials within the Commerce Department.

I believe I come equipped to do that job. For the last 20 years I have held positions directly related to or associated with the legislative process. From that experience I know that all I have to offer to you is my credibility. And if reported favorably by this committee and confirmed by the Senate, I would hope that at the end of my term of service, I will have performed in such a way that you will view my credibility as sound.

Thank you, Mr. Chairman. I would be happy to answer any questions you might have.

Senator **Rockefeller**. Thank you very much, Mr. McKiernan. Mr. Stevens?

Senator **Stevens**. No. I visited yesterday with the nominee.

Senator **Rockefeller**. Very good.

What is on the burner right now on the Senate floor, obviously, is the trade bill, and the evolution of that is interesting, and the resolution of it is very important to the future of this country. I would just be interested if you would have comments with respect to the trade bill? Specifically, whether you have had an influence in the formulation of that policy. Do you have any comments that you would wish to make about this country's trade policies.

Mr. McKiernan. I have not been directly involved in the formulation of policy. Many times, however, I do become involved once the policy is developed and we have responses from the Congress.

I think a most recent illustration, which is part of the trade bill, is the competitiveness portion reported by this committee. As originally drafted, I'm sure you are aware, the administration had a number of problems with the bill, but because of the competence of this staff and the willingness of the Senators on this committee to work with the administration, I think we have developed a very responsible piece of legislation which will serve us well into the 1990s.

The debate on the Senate floor of late, as you well know, has focused on unfair trade practices. Those are very important. I think they are critical to the preservation of a number of U.S. jobs. But the parts of the trade bill the Commerce Department has been primarily interested in, which have not really been in the spotlight, are ones which we believe would create jobs such as a very good product reported out of the Banking Committee reforming our export control laws, also the Banking Committee title, reforming the Foreign Corrupt Practices Act, bringing clarity to that very important piece of legislation.

There will be an amendment offered by Senator Heinz to improve the Export Trading Company Act, which we passed with much fanfare in 1982. And I think it is a very valuable piece of legislation.

These are job creators. I think the Commerce Department is in the forefront on them, and we hope—our posture at Commerce—I spoke with the Secretary this morning—is that we are still working with the Senate and we hope a bill emerge that the President can sign.

Senator Rockefeller. Mr. McKiernan, in your speech to the World Affairs Council of Western Massachusetts in January of 1987, you spoke of "our mission, structuring a bill to achieve the twin goals of rebuilding and retraining America's leadership in world trade in the long term and helping to bring down the trade deficit in the short term."

Did you have a role with respect to the competitiveness part of the administration's presentations in bill form?

Mr. McKiernan. A variation on the theme of my previous answer, not in the genesis of the policy formulation, but once things developed, I have been able to have access to Deputy Secretary Brown and Secretary Baldrige and reach accommodations with committees that is, policy formulation after it is already moving forward.

Another one, Senator, from last year, not this trade bill of course, is the Japanese Technical Literature Act, which initially the administration had problems with, but we worked with you and worked with other members of this committee. And a month ago today, that office opened up in Tokyo. And I think that was a very good, successful resolution of that issue.

Senator Rockefeller. That's correct.

Are there any other comments that you would like to make, Mr. McKiernan?

Mr. McKiernan. No, sir. I thank you for being here.

Senator Rockefeller. And if Senator Stevens has no comments, I want to thank you. I repeat to you that I agree with—I don't know you as Senator Weicker does, but what I understand about you, what I have heard about you is absolutely first class. What Senator Weicker says about you has a lot of weight with this Senator.

And I wish you well. You will certainly have my support.

Mr. McKiernan. Thank you, Mr. Chairman. I appreciate that.

Senator Rockefeller. I am very pleased that you are going to be here, and Senator Weicker, again thank you very much too.

Senator Weicker. Thank you very much, Senator.

[The questions and answers follow:]

Prehearing Questions of the Majority and the Answers of Mr. McKiernan

QUALIFICATIONS AND BACKGROUND

Question 1. In light of your position as the Deputy Assistant Secretary for Congressional Affairs at the Department of Commerce, what experiences would you bring to the office of Assisant Secretary of Commerce for Congressional and Intergovernmental Affairs that will enable you to execute the duties of the position?

Answer. First, I believe it important for the Committee to know of my background and experience. For the last 20 years, I have held positions directly related to or associated with the legislative process. I was Executive Assistant to the Minority Leader of the House in the State of Connecticut for two and one-half years and prior to that was a reporter covering the Connecticut Governor's Office and the Connecticut House and Senate. From 1971 to 1981, I served in the U.S. House of Representatives on the staff of Congressman Stewart B. McKinney (R-CT). In 1981 I began my service with the Reagan Administration at the U.S. Department of Commerce. As Deputy Assistant Secretary, I am the day-to-day manager of the Department's Congressional Affairs function and as such, I meet regularly with Congressional Affairs staff from all Commerce agencies. From this interaction over six and one-half years, I have an appreciation of how Congress and the Executive Branch can work together to resolve problems. I believe this experience has given me an understanding of Members' needs.

Question 2. In your capacity as Deputy Assistant Secretary, to what extent did you work with the Assistant Secretary in managing relations between the Commerce Department and Congress?

Answer. The Assistant Secretary and I met with the entire staff every morning and he and I met regularly at the end of every day to reevaluate the day's accomplishments and efforts. We also met numerous times during the day as the need arose. Therefore, we were in constant contact and as up-to-the-minute as possible on Members interests and conveying those interests to top level Departmental officials.

Question 3. How do you think your background at the International Trade Administration prepares you for the position of Assistant Secretary for Congressional and Intergovernmental Affairs?

Answer. The International Trade Administration Congressional Affairs Office is probably one of the busiest offices in government. It commands constant attention to Congressional needs and requires that the staff be able to be immediately responsive to Members and their staff. There were Congressional hearings nearly every day—and sometimes two or three. During one six-month period, my staff responded to 12,000 phone requests, as well. The breadth of the issues we covered gave me an in-depth perception of trade legislation and Administration policies. From that experience, I gained an appreciation of the statement "I need it now" and that training prepared me to be responsive. I know what a Member of Congress means when he or she says "I need it now."

Question 4. What was your function on the Trade Policy Committee? In what specific trade policy decisions were you involved?

Answer. I am a member of the Trade Policy Committee Subcommittee on Congressional Affairs, chaired by the Assisant U.S. Trade Representative for Congressional Affairs. This group serves as an inter-agency clearinghouse of information so that we are all informed about trade legislation before all agencies. This information sharing allows me to be more responsive to the myriad of trade-related questions posed by Members and Congressional staffs.

TRADE AND OTHER POLICY ISSUES

Question 5. You have served in various capacities at the Commerce Department since 1981. What role have you had in formulating the Administration's trade policy? Are there other policies related to other areas of Commerce Department responsibility that you have been involved in formulating or promoting?

Answer. My positions at the Department of Commerce have been Director of Congressional Relations, International Trade Administration; and Deputy Assistant Secretary for Congressional Affairs. Neither of these positions is considered a policy position. My mission in those positions, as well as the Assistant Secretary, if confirmed, is to communicate between the Congress, the Secretary and the President.

My role in formulating trade policy has been to advise officials of the Commerce Department of the views of individual Members of Congress involved in trade policy and the collective mood of the Congress on trade to anticipate problems as well as opportunities rather than just react to them. I have sought the advice of many Members of Congress directly involved in overseeing trade policy, and a broad range of Members of Congress on how the Administration should respond to the growing interest in trade issues. In the case of trade legislation, I was advised that the Administration should offer its own bill. We followed that advice, and it has positioned us to work with the Congress on the matter currently before the Senate.

Question 6. Do you believe the Administration's trade policy has adequately addressed our trade problems?

Answer. Since September, 1985, the Administration has taken unprecedented numbers of trade actions—over 60 individual actions—affecting major U.S. business interests, such as autoparts, semiconductors, textiles, aerospace, computers, machine tools, insurance, telecommunications, intellectual property rights, and involving 22 major trading partners. The actions include retaliation against Japan on semiconductors, against the European Community on oilseeds, negotiations to improve market access, unprecedented self-initiation of 301 cases and self-initiation of a dumping investigation on semiconductors, and numerous improvements in protection of intellectual property rights abroad.

In terms of legislation, passage of the Export Trading Company Act, the National Cooperative Research Act, the Technology Transfer Act, and the Caribbean Basin Initiative are examples of Administration initiatives to encourage exports and improve competitiveness.

Much of the recent attention in Congress and in the Administration has been on unfair trade practices. I think we would agree that elimination of unfair trade practices will make an important difference in the size of the trade deficit, but that macroeconomic forces have a much larger effect on the solution to the problem.

Question 7. In your speech to the World Affairs Council of Western Massachusetts in January of 1987, you spoke of "our mission—structuring a bill to achieve the twin goals of rebuilding and retraining America's leadership in world trade in the long term and helping to bring down the trade deficit in the short term." What was your role in writing the Administration's competitiveness bill?

Answer. My role in the development of the Administration's trade bill was to provide advice on the issues of importance to the Congress on competitiveness, such as streamlining export controls, providing incentives to Export Trading Company formation, strengthening intellectual property rights protection both in the U.S. and abroad, as well as trade law improvements. The Administration's bill encompassed many if not all of the issues covered in the House and Senate bills with some additional important issues relating to our ability to compete, such as product liability law reform and updating of our antitrust laws to meet the competitiveness challenges facing the business community. Many of these issues get overshadowed by the focus on trade law changes, but they are the areas where jobs will be created and our competitiveness will be strengthened.

Question 8. In your remarks before the Trade and Competitiveness Forum in North Carolina, you said: "Many of our proposals are based on the need to further reduce the Government's role in private sector affairs. For the most part, Government involvement distorts the decision-making process." Do you not believe that the Federal government has an important role in promoting competitiveness?

Answer. Yes, I do believe the government has an important role to play in promoting competitiveness. There are at least three areas that the government should concentrate on to help increase U.S. competitiveness: (1) Government should provide a healthy economic climate. Businesses need economic stability so they can plan effectively and invest efficiently; (2) Government should remove regulatory burdens that impede our firms' ability to compete in the world marketplace; and (3) Government should provide the highest degree of certainty in the law possible, so there is no question as to what individuals and firms can and cannot do. I'd cite the Administration's competitiveness proposal as an embodiment of these concepts, with proposals to reform our product liability laws, modernize antitrust law, streamline export controls, remove ambiguity in the Foreign Corrupt Practices Act and improve and clarify the Export Trading Company Act, as examples of this.

Government *should* set the stage for effective competition.

Question. 9. The Department of Commerce has responsibility for other important areas of interest to this Committee apart from trade, including oceans and atmospheric, communications, and consumer issues. Are there particular issues in these other areas which you believe need to be addressed?

Answer. There are a number of areas apart from trade which are critically important to the Department of Commerce which I believe the Committee hears about, if not directly from me, from others who represent the Office of Congressional Affairs.

Examples include the Department's interest in recent environmental issues which involve the National Oceanic and Atmospheric Administration. NOAA undertook to reduce sea turtle mortality through the use of turtle excluder devices (TEDs) on shrimping boats. At last month's International Whaling Commission meeting in England, NOAA helped negotiate reasonable limits on the number of whales taken for scientific purposes. The modernization of NOAA's National Weather Service has also been a high priority, where the deployment of the first NEXRAD radars and other elements of modernization are going into operation. In each of these areas, we've worked closely with the Committee.

Another is the Department's efforts in the area of product liability. Laws governing product liability vary from state to state creating a patchwork of standards for manufacturers and retailers and a patchwork of remedies and rights for consumers. This is why the Department of Commerce has proposed federal legislation to establish federal standards for product liability that will promote the free flow and consumption of goods in interstate commerce.

Still another area of Departmental concern is telecommunications policy. Expanding the competitive opportunities available to U.S. communications equipment and service suppliers is essential if we are to maintain our competitiveness in this high-tech sector. Besides telecommunications trade, the Department is looking into ways of improving the management of the radio spectrum. Ensuring the availability of channels is essential to the success of satellite, mobile radio and other U.S. telecommunications companies competing in world equipment and service markets.

Question. 10. If confirmed as Assistant Secretary for Congressional and Intergovernmental Affairs, what would you establish as priorities for that office? How would you view your role in the future policies of the Department of Commerce?

Answer. The duty of the Assistant Secretary is to maintain and promote open communications with the Congress. I am proud of our staff and will continue to encourage them to keep open lines of communication with the Congress and their staff.

My role as Assistant Secretary, if confirmed, will be to also be responsive to Congress and to share the President's and Secretary's views with you. As mentioned earlier, the Secretary to the President set the policy for the Department. It will be my job to convey that policy to you and communicate your views to the Administration.

The Intergovernmental Affairs Office has established the Department of Commerce State Initiative on International Trade, Technological Innovation and Economic Growth. The goal of this effort is to further implement President Reagan's federalism initiative. A tailor-made state economic profile, which measures economic performance over time assists state policymakers in designing programs that promote economic growth and diversification. The DoC-State Initiative also trains state officials in the preparation and use of the profile and other available cross-cutting Departmental resources, such as the International Trade Administration, Office of Productivity, Technology and Innovation and the Bureau of the Census.

I note that S. 907, the Technology Competitiveness Act, authorizes a Center on State and Local Initiatives in the Office of the Secretary as suggested. This will institutionalize and build upon the fine effort already underway in Intergovernmental Affairs and I would look forward to its implementation.

Senator ROCKEFELLER. And I would ask now, Dale Petroskey please to come forward, the nominee to be Assistant Secretary for Public Affairs in the Department of Transportation.

I notice that Senator Pressler is here. Senator Pressler, are there any remarks that you would like to make?

Senator **Pressler**. No, Mr. Chairman, I would just like to welcome the witnesses and thank you very much for holding this hearing. And we hope the nominees are confirmed quickly.

Senator **Rockefeller**. You are welcome to make any comments you would like to, Mr. Petroskey.

[The biographical sketch follows:]

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United States Senate
COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION
WASHINGTON, DC 20510-6125

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

(If more space is needed, please use attached REMARKS sheet)

A. BIOGRAPHICAL DATA

1. Name: Petroskey (Last) Dale (First) Alan (Other)

Address: 7835 Wintercress Lane
Springfield, Virginia 22152
(Current residence)

400 7th Street, S.W.; Suite 10414
Washington, D.C. 20590
(Business)

2. Position to which nominated: Assistnat Secretary for Public Affairs

Date of nomination:

3. Date of birth: August (month) 17 (day) 1955 (year)

Place of birth: Detroit, Michigan

4. Marital status: married

Full name of Spouse: Ann Holiday Grover Petroskey

5. Names and ages of children: None

6. Education:

Institution	Dates attended	Degrees received	Dates of degrees
Michigan State University	1975-1978	B.A.	1978
Central Michigan University	1973-1975		

7. Employment record: List all positions held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

From	To	Name of employer	Address	Type of work
3/78	6/78	United Press International	Lansing, MI	Intern
6/78	4/81	Mich.House GOP Press	108 St. Cap. Lansing, MI	Asst. Press Sec.
4/81	12/81	Cong. Mark Siljander	1022 Longworth Washington,DC	Press Secretary
12/81	4/85	Cong. Bill Goodling	2263 Rayburn Washington, DC	Admin. Asst.
4/85	3/87	White House	1600 Pa. Ave.,NW Washington, DC	Asst. Press Sec.

9. Political affiliations activities: List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last 10 years.

Member, Republican Party.

Campaign manager, Siljander for Congress, 1981.

Reagan-Bush '84.

STATEMENT OF DALE A. PETROSKEY

Mr. PETROSKEY. Thank you, Mr. Chairman. I am honored to appear before you today as President Reagan's nominee for Assistant Secretary for Public Affairs at the Department of Transportation. If you will be so kind as to allow me, I would like to read a brief statement and will then be happy to answer your questions.

I am confident that my background in both public affairs and public policy gives me a strong foundation for the position for which I have been nominated. Since the day I received my degree in journalism from Michigan State University, I have been involved in press relations at the state level and at the legislative and the executive branch levels of the Federal Government. I was a press secretary and an administrative assistant on Capitol Hill for four years, and later had the privilege of working under someone whom I consider to be a premier spokesman, Larry Speakes, as Assistant Press Secretary to the President.

During my tenure on Capitol Hill and at the White House, I was charged with management duties as well as relations with the press and the public. I managed a staff of 16 in the office of the fine Pennsylvania Congressman, Bill Goodling, and a staff of 6 at the White House.

I have been on board as Deputy Assistant Secretary for Public Affairs at Transportation since early March. I have had the opportunity to become involved with the issues and to work with Secretary Dole, the modal administrators and the very fine public affairs staff. I find this a great challenge indeed, particularly since transportation has such a direct and important bearing on every American. The Assistant Secretary for Public Affairs is key to communicating the issues to the public. It is crucial that the public always be kept informed about what we do and why we do it. And I pledge to you to keep them informed.

My experience in public affairs has taught me one thing above all else: those of us who are trusted to work in government service, whether it be on the local, state or Federal level, are servants of the people and not the other way around. Without the confidence of the public, those in public service cannot presume the right to make decisions for the American people. I therefore have always believed that the role of those of us in public affairs is listening to the American people, as well as getting information to them. I firmly believe in an open, two-way communication system between the Department and the public. That means working with the news media to inform the public, working with the Congress, as well as the other departments and agencies in the executive branch to help the public know and understand the issues that affect them.

I consider myself extremely fortunate to have such a supportive wife, who is on vacation in Michigan at the moment, and I hope to join her soon. For the past several years, Ann has exhibited an enormous amount of understanding and patience, and has provided me invaluable support through the long hours and stressful situations which come with this territory. She is a real source of strength to me, and Ann is and always will be an equal partner in my career.

I will conclude by saying that I feel very privileged to work under one of this Nation's truly outstanding public servants, Secretary Elizabeth Dole, who is tireless in her commitment to the safest and most efficient national transportation system possible. It is an honor to have had an opportunity to serve her as Deputy Assistant Secretary for Public Affairs. I share Secretary Dole's commitment, and should you choose to recommend my confirmation, I look forward to assisting her in this most important effort.

This concludes my statement, and I will be happy to answer your questions.

Senator Rockefeller. Thank you, Mr. Petroskey.

I have also heard very good things about you. And I have no particular questions philosophically or substantively at this point.

Senator Stevens or Senator Pressler, do either of you have questions that you would like to ask?

Senator Stevens. No, sir. I'll defer to Senator Pressler.

Senator Pressler. Well, let me just ask you about your philosophy of dealing with the press. It is always said that the press is—there's a division between political people and the press. I know that everybody wants to be very open with the press. But there are times maybe when we are taking advantage of it. We are overly open. What is your basic philosophy of dealing with the press?

Mr. Petroskey. Senator Pressler, I believe that the press plays a very, very important role in the workings of the American system of government. It is only through a free flow of information and through a dialogue between the press and other opinion makers and decision makers in Washington that good public policy can be made. So, my approach has always been to be as open as possible with them.

Senator Rockefeller. Senator Stevens? I wish you well. I think you will do well on this committee. You will have this member's support. And you can get on back to Michigan.

Mr. Petroskey. Thank you very much, Mr. Chairman.

Senator Rockefeller. The hearing is adjourned.

[The questions and answers follow:]

PREHEARING QUESTIONS OF THE MAJORITY AND THE ANSWERS OF MR. PETROSKEY

Question. You have served as an assistant press secretary at the White House and a press secretary and administrative assistant to two Members of Congress. How do your past experiences qualify you for the position of Assistant Secretary of Public Affairs for the Department of Transportation?

Answer. My entire career, which began in 1978, has been one of the public affairs positions, first at the state level in Michigan as an assistant press secretary for the Michigan House Republican caucus, and for the past 6-plus years in Washington in the capacities you describe. As a result, I have had experiences working in the state Legislature, in the U.S. House of Representatives, at the White and most recently as Deputy Assistant Secretary for Public Affairs at the Department of Transportation.

Though the positions have been varied, the common thread that runs through all of them is the emphasis on, and need for, two-way communication between those appointed and elected and those whom they serve, the American people. This communication is the very essence of our system of government. The opportunity to serve the American people is a very real privilege indeed, and if they are to get the quality of government they deserve, it is vitally important that they be informed of the decision-making process and the ultimate decisions made and why they were made. Equally important—and oftentimes more important—is the need and responsibility to listen to the views of the people affected as the decision-making process moves along.

Through my experiences, I have gained a first-hand perspective on the role of the press, the Congress, The White House (and the entire Executive branch), all other levels of government and ultimately the public in public policy debates.

While at The White House, my responsibilities included acting as liaison with 5 Cabinet Departments' public affairs offices, including the Department of Transportation. I dealt with the Department on a daily basis and had a knowledge of the issues prior to my appointment there. Coupled with my management experience on Capitol Hill, where I managed a staff of 16, and at The White House, where I managed a staff of 6 and served as a spokesman for the President, I believe I am well-suited for the position of Assistant Secretary for Public Affairs at DOT.

Question. Why do you want this position, and what do you hope to accomplish?

Answer. In my opinion, the position is an exciting and challenging a public affairs position as there is in the federal government at this time. The Department faces many challenges on many fronts—in aviation, highway safety, railroad safety, among other areas. These obviously are issues that get an enormous amount of attention in the media, and rightfully so; they affect every one of us in a very direct way.

The issues the Department deals with are critical. They are literally life and death many times, and I believe it is important that all sides be listened to. It is our responsibility to disseminate the information accurately so that the debates can be productive. The result would be sound public policy for the American people.

My goal is to ensure that the facts are gathered and presented in a coherent and understandable fashion so that reasoned approaches to these challenges will prevail.

Question. What is your general philosophy about public affairs at DOT?

Answer. Public Affairs is a two-way street. It is our responsibility to both listen to the people we serve and to facilitate the dissemination of information which allows the American people to know of decisions made on their behalf. It is also important to inform the American people of the national transportation programs available to them. As part of the Department's team, the public affairs office also plays a role in the public debate over safety, the level of funding requested by the Administration for a particular program, etc. It is our role to provide the American people with the facts in order that we may affect the decision-making process by having citizens' voices heard on Capitol Hill during the debate on these critical issues.

Question. How will you seek to improve and increase the public's awareness of programs and policies initiated by DOT?

Answer. I believe we have a fine system in place at the present. Our approach has been to be available at all times—day or night—to answer reporters' questions, and to make the Secretary and other top Department officials available to the press on a regular and continuing basis. In addition, we work very hard to provide a timely release of information to the press so that the facts are presented to the American public through the news media as the issues are being debated.

This approach has worked very well, and I believe a continuing policy of openness and frankness will allow the American people an opportunity to know the position of the Department on any particular issue, and what is available to them in the way of federal transportation programs.

Question. There are some acts, such as the Hazardous Materials Transportation Act, that require DOT to implement policies and develop programs in conjunction with other Federal, State and local agencies. Often, local officials and members of the general public have suggested that they do not know which federal agency is responsible for responding to their problems. What ideals do you have to improve communication concerning the extent of DOT's involvement, as it relates to other government entities and the general public, in a situation where several agencies share jurisdiction?

Answer. One way to help educate the public is by making the Administrator of a particular mode available to the press when he or she travels to an area affected by such a situation. An example of this would be to make our Administrator for Research and Special Programs, Cindy Douglass, available to talk with the press in areas affected by the Hazardous Materials Transportation Act. This access to public officials will allow us to educate the people directly affected on the rule of the various jurisdictions in as efficient and cost-effective a manner as possible.

In addition, we will continue to answer questions from the out-of-town press interested in a particular program in an effort to inform them of the individuals and programs in Washington and in their local jurisdictions responsible for action on a particular matter.

[Whereupon, at 10:17 a.m., the committee was adjourned.]

ROBERT D. ORR, CHARLES LUNA, AND DARRELL M. TRENT, TO BE MEMBERS OF THE BOARD OF DIRECTORS, AMTRAK

WEDNESDAY, JULY 22, 1987

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Committee met at 2:05 p.m., in room SR-253, Russell Senate Office Building, the Hon. J. James Exon presiding.

Staff members assigned to this hearing: Sheryl Webber Washington, professional staff member and Macky Ayers, minority professional staff member

OPENING STATEMENT BY SENATOR EXON

Senator EXON. The Committee will please come to order. I would like to ask our witnesses today to please come forward and take seats at the table.

First, the Hon. Robert D. Orr, Governor of the great State of Indiana, and Charles Luna of Dallas, Texas, and Mr. Darrell Trent, from Wilmington, Delaware, who is a new appointment.

I think that, I understand, Governor Orr, that you have some previous commitments, and as a former governor myself, I know how difficult your time is to arrange. We appreciate very much the fact that all of you have come in this morning, especially you, Governor Orr, with the responsibilities that you have out there, it is always nice for a former governor to welcome a sitting governor, because I know the extreme demands on your time.

Therefore I will be glad to accommodate your wishes. I will recognize you in just a moment for any opening statements that you might have, then any questions that I have of you, we will go into that.

Then if the other two gentlemen are not pressed for time, we will proceed with them. Is that satisfactory to the members of the panel? First, I have a brief opening statement.

Today the Committee on Commerce, Science, and Transportation meets to consider the nomination of the President of three individuals to serve as members of the Board of Directors of the National Railroad Passenger Corporation, commonly known as Amtrak.

The advice and consent role of the Senate is one we take very seriously, as you all know very well. Three members of Amtrak's nine member Board are presidential appointees made by and with the advice and consent of the Senate.

With the passage of the Consolidated Omnibus Budget Reconciliation Act of 1985, Congress reaffirmed its commitment to a national rail passenger system. We have been and remain concerned that this commitment is carried out.

It is with this understanding that we will carefully examine the nominees before us this afternoon. First we will consider the renomination of Governor Robert Orr and Mr. Charles Luna to the Board of Directors.

Governor Orr has been on the Board since 1982, as we all know. He has served as a distinguished governor from the State of Indiana since 1981. I might add that another Orr has joined the ranks of governor from my State of Nebraska, and I assume, Governor Orr, by this time you have gotten acquainted with Governor Orr very well, who serves as our governor in Nebraska.

Mr. Luna was appointed to the Board in 1971, and is a former president of the United Transportation Union and the Brotherhood of Railway Trainmen.

Our third nomination under consideration this afternoon will be that of Darrell M. Trent. Mr. Trent is currently Chairman of the Board of Rollins Environmental Services, Inc.

From 1981 to May of 1983, he served as deputy secretary of the U.S. Department of Transportation under the former director, who is now my friend and currently with the Union Pacific Railroad, Mr. Drew Lewis.

The Committee will review each of these nominees carefully, keeping in mind that Amtrak's Board of Directors has a tremendous responsibility to ensure that truly national rail service is maintained while the corporation continues to improve its financial and operating performance.

Now we will proceed with the hearing. I understand and am very pleased to see the two Senators from Indiana here. I just looked up and saw them. I knew that you were going to come in and I will recognize first the senior Senator from the state. Dick, would you please proceed?

STATEMENT OF HON. RICHARD G. LUGAR, U.S. SENATOR FROM INDIANA

Senator LUGAR. Thank you very much. I am very honored and pleased once again to introduce my good friend and fellow Hoosier, Governor Robert G. Orr, who is making his second appearance before this Committee as President Reagan's gubernatorial nominee to the Amtrak Board of Directors.

The Governor and I have long shared a strong personal relationship. We have had the good fortune to work closely together during my years of public service. And I can tell you that he has served with distinction and skill in a variety of challenging responsibilities.

He is by any assessment especially well-qualified to serve on the Amtrak Board. Indeed he must be credited, in my judgment, for providing essential leadership on the Board during the dramatic recovery and economic turnaround that we have all witnessed in Amtrak operations during the last five or six years.

Since Bob Orr began serving on the Board of Directors, Amtrak has achieved major improvements in the revenue-cost ratio. In 1981, only 48 percent of the actual cost of transportation was paid for by ticket price.

That ratio has now risen to 64 percent, and it is continuing to rise. Bob Orr has been directly responsible for several very effective revenue-enhancement measures, based on a strategy of revenue diversification. Several significant real estate development projects have been launched since 1982. Simply put, Amtrak is now able to realize a greater return from its assets.

Other notable Amtrak achievements during Bob Orr's first term on the Board of Directors include a dramatic increase in systemwide ridership and in total revenue. The total number of passenger miles has reached 5.013 billion. This is an improvement of 25 percent since 1978. Total revenue has reached new record levels.

These are worthy achievements. But perhaps the most noteworthy measure of the recent Amtrak turnabout is that Amtrak, since 1979, has been able to reduce its dependence on Federal support by over 52 percent.

The biggest savings have been achieved since Bob Orr has been on the Board, and I hope that he will be given his share of credit for this achievement.

Mr. Chairman, I believe that Governor Orr is exceptionally well-qualified. His leadership abilities on the Board are attested by the facts. It is with great pleasure and honor that I join my colleague, Senator Quayle, in introducing Governor Robert D. Orr to this Committee today.

Senator EXON. Thank you very much. We appreciate you taking the time to come over and introduce and support your friend and colleague, the Governor of Indiana.

I am now pleased to recognize the junior Senator from the State of Indiana, who I have the distinct honor to serve with on the Armed Services Committee, where you are a very valuable Member.

Senator Quayle, please proceed.

STATEMENT OF HON. DAN QUAYLE, U.S. SENATOR FROM INDIANA

Senator QUAYLE. Mr. Chairman, let me just join with my colleague, Dick Lugar, in enthusiastically encouraging the nomination and the support for our dear friend, Governor Bob Orr.

He brings a rather unique background in public service as well as business. He has been a state senator, the Lieutenant Governor, and now the current Governor serving his second term.

He also has a very good business background, and I think that that is somewhat of a unique background, to sit on the Amtrak Board to try to make some of these decisions on how we are going to get the best from the private sector and the public sector in making Amtrak a viable entity.

He has been a very innovative person on that Board of Directors, which I am sure that you are aware of, because of this Committee's oversight. And it is with really a great deal of enthusiasm that I join with my senior colleague in wishing Bob Orr very well on this nomination by the President once again for the Board of Directors.

And I certainly thank you for your courtesy and indulgence in allowing us to come here today to attest to his character and ability.

It gives me great pleasure to endorse the nomination of Governor Robert D. Orr of Indiana for continued membership on the Board of Directors of the National Railroad Passenger Corporation, or "Amtrak" as it is more commonly known.

Governor Orr began his distinguished career of public service in the 1960s as an Indiana State Senator. He later served two consecutive terms as Lieutenant Governor under former Governor Otis Bowen, who is now Secretary of the U.S. Department of Health and Human Services. Bob Orr is now completing his second term as Governor of Indiana.

Under Governor Orr's leadership, the people of Indiana have seen significant advancements in education and economic development. In fact, during his tenure, Indiana has enjoyed its strongest economic growth in 40 years.

An active member of the National Governors Association, Bob Orr now serves as a member of its Transportation, Commerce and Communications Committee. Previously, he was the chairman of that panel for an unprecedented four years. During that time, he represented state government views while the Surface Transportation Assistance Act of 1982 was being crafted by Congress.

In 1982, President Reagan nominated and the Senate confirmed Bob Orr to the Amtrak Board of Directors. During his years on the board, Amtrak has endeavored to improve its operations, cut its costs and lessen its reliance on Federal subsidies.

Across the nation, Amtrak stations are being renovated, track and equipment upgraded and overall ride quality improved. Onboard amenities and an aggressive national marketing campaign promote rail travel in today's competitive commercial transportation marketplace.

To reduce its operating expenses and lessen its dependence on Congressional appropriations, Amtrak has pursued creative means of generating income. The successful pursuit of mail transport contracts has both yielded additional revenue and resulted in increased train frequencies along certain routes. Additional revenue is also being generated by leasing "right-of-way" space along Amtrak routes to the fiber optics industry. Contracts with several communications companies have resulted in over $30 million in new revenues to the corporation.

These positive developments are encouraging and speak well of Amtrak's ability to continue to operate as a viable and necessary element of our national transportation system. As Amtrak continues to mature, the guidance of leaders such as Bob Orr will be of great importance. Governor Orr has time and again demonstrated his dedication and competence as a public servant and as a talented player in the field of national transportation policy making. I encourage you to approve his nomination.

Senator EXON. Thank you very much, Senator Quayle, and thank you, Senator Lugar, and we hope that you can stay as long as your time will allow. If you have to leave for any reason, we will understand.

We are going to move ahead with Governor Orr first. Thanks for coming, and we appreciate it very much. You did not say anything about the other two nominees. That does not mean that you are necessarily against them. Is that right?

Senator **Lugar**. We are for them.

Senator **Exon**. You are for them. All right. Governor Orr, and I am pleased to recognize you.

Just as an aside, are there any Orrs that have ever been elected to high public office that were not Republicans? Or are there any Orrs, as far as anyone knows, who are Democrats, or is Orr strictly a Republican name?

[The biographical sketch follows:]

Biographical Sketch of Robert D. Orr

Current residence: 4750 N. Meridian St., Indianapolis, IN 46208.
Business: 206 State House, Indianapolis, IN 46204.
Position to which nominated: Director, Amtrak.
Date of nomination: April 1987.
Date of birth: Nov. 17, 1917.
Place of birth: Ann Arbor, MI.
Marital status: Married.
Full name of Spouse: Joanne Wallace Orr.
Names and ages of children: Robert D. Orr, Jr., 40; Susan O. Jones, 37; and Robbins O. Hail, 37.

EDUCATION

Institution, dates attended, degrees received, and dates of degrees.
Yale, 1936–40, BA, 1940.
Harvard Bus. School 1940–1942. Left Feb. 1942 for service in Army.

EMPLOYMENT RECORD

List all positions held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.
From, to, name of employer, address, and type of work.
1946–1960, Orr Iron Co, Evansville, Ind., Executive V.P.
1957–1969, Hahn Inc., Evansville, Ind., Vice Pres.
1962–1973, Indian Industries, Evansville, Ind., Chairman.
1962–1986, Dixson, Inc., Grand Junction, Colo., Director.

GOVERNMENT EXPERIENCE

List any experience in or direct association with Federal, State, or local governments including any advisory, consultative, honorary or other part-time service or positions.
1942–46, U.S. Army—Private to Major.
1954, 3 mo. duty with Foreign Oper Admin—Vietnam.
1968–72, Indiana State Senate—Senator.
1973–81, Lt Governor.
1981–89, Governor.

STATEMENT OF HON. ROBERT D. ORR, GOVERNOR, STATE OF INDIANA

Governor **Orr**. I would not be surprised if there might be a few of us that——

Senator **Exon**. Have slipped?

Governor **Orr**. Yes.

Senator **Exon**. Thank you, Governor Orr.

Governor **Orr**. Mr. Chairman, let me correct an impression that Senator Lugar may through his enthusiasm have suggested, which is that the dramatic turnaround that has taken place at Amtrak is my entire responsibility.

I have been pleased to have been a member of the Board since 1982, along with Mr. Luna here, who has been there quite a lot longer than I or anyone else on the Board. He has had the opportunity to see the changes that have taken place and the improvements that have materialized.

But I think he would join with me in saying that in the last five years there has been a greater degree of improvement since Graham Claytor took command. He is indeed a talented human being.

He is someone who has the ability to engender loyalty and support and hard work from his associates, a creative leader in giving the kind of direction to the affairs of that enterprise that has made a significant difference.

When he says to his own staff, as well as to the Board of Directors, as he did a few years ago, that we are going to see an increase in the amount of coverage of the cost of operation that will be borne by the operations of the enterprise, and I think it ought to be increased from 58 to 60 percent, or whatever it was, he started much lower than that, you know that it is going to be achieved.

He has accomplished that, and I think it is important for me to put that on the record so as to cause what Senator Lugar had to say about my presence on the Board to be appropriately minimized. I would be happy to support a person of the remarkable leadership ability of Graham Claytor.

I want in my brief remarks simply to make the observation that this hardworking and talented team, which Mr. Claytor has assembled, is one which has probably been as much responsible for the success of the enterprise as anything.

There is one problem that Mr. Claytor suffers from. Simply stated it is that it is difficult to keep that quality team together because of the cap that exists on the salaries for all those that are part of the executive staff of Amtrak.

I know that you are aware of this fact. And I just simply think it is important for me to mention that the retention of these capable people on that management team is very important to the continued reduction of the amount of subsidy that is required for Amtrak.

In other words, some increase in salary levels will make it possible to continue some reduction in the subsidy that the Congress must make.

I thank you for giving us the credit for being here to be present for this review. We are delighted to do that. Let it be understood that yesterday and today we have been, Mr. Luna and I, serving as members of the Board on extensive committee reviews of things, and this morning the Board meeting.

And I would like to report that the enterprise does seem to be in extremely good shape. We are looking into the future. Graham Claytor asked me to chair a marketing committee to try to design a program to see what we could do to improve on the reach of Amtrak, and improve on its continuing growth.

We spent a good deal of time in that endeavor, and I think it is an example of the approach that is being taken by the management of Amtrak under Mr. Claytor's leadership. And now I am prepared to answer any questions that you may have.

Senator EXON. Governor, thank you very much. I just have one question I want to ask you about and you touched on it in your opening remarks.

As a strong supporter of Amtrak from the time that I first came here, I am very pleased to see the new attitude that I think is generally prevailing around the country about Amtrak.

We have a lot of detractors from the system that criticized it continually and say it would be much cheaper for the government just to stand out at the train station and give $50 to everyone that gets on the Amtrak so they could go fly on airlines.

I appreciated and agree completely with your outstanding endorsement of Graham Claytor. I think he has done an outstanding job. But I think he could not have done that without the support of yourself and others who have been on that Board.

So I think things are basically going quite well for Amtrak, and I am delighted that you are taking continued interest.

The only question I have of you, first I want to compliment the Board and Graham Claytor for their aggressive promotional efforts, with regard to Amtrak. I think for a number of years the Amtrak group felt, well, it is here if the people want to come and use it, it is available to them.

I think one of the things I have noticed is your significant and well-done advertising with regard to Amtrak that I am sure is increasing the use of the facilities that are offered.

You mentioned that you were the new chair of the marketing subcommittee of the Amtrak Board. Can you give us any brief explanation of maybe some of the things that you are presently considering that you could do to further the awareness of the American public as to the excellent service and reliability that Amtrak provides for moving people?

Governor ORR. Yes, sir. This committee that I referred to and that you referred to is in its infancy.

The meeting that took place yesterday, which lasted far longer in the afternoon than was anticipated, I think people were very interested in its potentials, and we met again this morning.

We have not yet reached determinations as to exactly the approach to be taken. But we have concluded that it would make sense to invite a consultant that is familiar with, experienced in transportation matters, and a consultant that is not known for having any transportation know-how, to take a quick look at Amtrak as observers, disinterested observers.

They would do this on a relatively inexpensive basis, to do it on a quick basis, so that we can not overlook those opportunities that there may be for an extension of service. It is our belief that rather than entering into a greater promotional activity at this point, in an effort to market the enterprise, that it would be well for us to assure ourselves that there are not other avenues for the expansion of the volume of business that the company does.

We believe that ought to be first, do that research, and then we will come together and reach some conclusions. It is our objective to assure the fact that we are leaving no stones unturned in expanding the potentials for the company.

Let me give you an example. A few years ago, there was a serious question as to whether or not it was profitable for the company to handle mail contracts.

Mr. Luna used to bring this subject up at Board meetings, because it was his belief that this was something that should be undertaken. And there was skepticism that it would be profitable.

In the last couple of years, they have undertaken a number of mail contracts. And as a matter of fact now we are seeking them out. They are profitable, if we handle them sensibly. And we can work with the postal service to assure the fact that there is competency on both hands in handling the mail.

Also one of the things that that has done is make it possible to add a few other passenger runs, because the combination of the mail contract and the passenger run makes it possible to be of that much more service.

That is a very small point, and it probably has not been overlyextensive as yet. But it is an example of the way by which I think we must look at that enterprise as if it were business of our own, that the investment in it were investments that were made by us, and we would be trying to maximize in every way possible we could the return on the investment.

I would make the point that the Board of Directors under Graham Claytor's leadership looks at every move that we make as whether or not we are getting a return on investment. Whatever investment we make, therefore, in this research and in the mood to try to broaden our scope, broaden our ability to serve the public, will be looked at as a return on investment.

And what kind of investment can we make that will pay off in the obvious advantage of reducing the subsidy or increasing the coverage by sales volume of the cost of operation, or both. Obviously they fit together.

Senator **Exon**. Thank you. I just have one last question. When you talk about mail, is that parcel post also? Or do you not have room for parcels?

Governor **Orr**. I think there is an effort at the present time to begin to undertake parcel post as well as——

Senator **Exon**. As regular mail.

Governor **Orr**. As regular mail. Packages, small packages, yes. And I think there could be an opportunity for more of that. It would be our objective, I suppose, to seize some of that.

It is now being handled in other fashions, by air, I suppose some by bus. But it seems that this would be a very appropriate thing. But we want to make certain that we are moving in the right direction. Therefore, we are doing this research.

Senator **Exon**. Governor, thank you very much. You have done a wonderful job. I do not know how you find the time to carry on such an important matter. But that shows you are a pretty good manager of your time. Thank you for coming.

Governor **Orr**. Thank you, and allow me to say hello to Senator Danforth and Senator Wilson.

Senator **Exon**. I am now going to recognize Senator Danforth and Senator Wilson is here. Governor Orr has another appointment and we agreed to take him first.

So I will recognize Senator Danforth at this time for any questions.

Senator **Danforth**. I am delighted to see you and I will not hold you up for a minute.

Senator **Exon**. Senator Wilson, glad to have you.

Senator **Wilson**. Thank you very much, Mr. Chairman. I am delighted to be here. And if the Governor has other pressing business, I will not detain him either.

Senator **Exon**. Well, I think if you have any key questions.

Governor **Orr**. I would be happy to answer any questions you have.

Senator **Wilson**. If you have time, I have one that relates to the overall cost of operation.

Some time ago, I would guess something in the neighborhood of about two years ago, a report was issued, I think by OMB, in connection with a budgetary report indicating that in the entire system of Amtrak something like a quarter of all of the stops boarded less than five passengers a day.

Another statistic in the same report indicated that operation of Amtrak at that level of frequency of use by passengers, even with heavy use in the northeastern and southwestern corridors, meant that taxpayers were having to subsidize the total operation to the extent of about $35 per passenger.

Has anything happened in the interval to change those numbers? Either the frequency of use in the less-traveled corridors, or the overall cost of the subsidy?

Governor **Orr**. Senator Wilson, obviously there will be some stops that are made which will probably never be economical to make.

But as long as they are on the route it is the belief, I think, of management that they should make those stops, particularly in the less well-populated areas of the country.

We constantly take a look at that at Board meetings. Those statistics are presented to us. And wherever there is a change in a route, matters of that nature are looked at.

Now as to the actual subsidy per passenger, let me make the point that years ago, I think at the time that Amtrak was created, the misunderstanding was allowed to prevail that ultimately the railroad would be a profit-making enterprise.

That it would produce enough revenue that it could support its costs, as well as build up in a normal business way the means by which to generate the capital for equipment renewal.

This just simply is not the case. There is no rail passenger service anywhere in the world that is not subsidized by the government. In fact, Amtrak is probably the least subsidized of any passenger rail service anywhere on the globe.

I would not want to make that as a categorical statement, but I am very familiar with the Japanese rail system, and it is unbelievably subsidized.

Senator WILSON. That would be of interest to me just for purposes of comparison. Do you happen to know what the figure is for subsidy in Japan?

Governor ORR. Well, its subsidy is at the level, I heard this morning, of about $30 billion a year. I can not believe it could be that sizeable.

But the point was made that they spend more money on the rail service in Japan than they do on defense.

Senator WILSON. That I believe.

Governor ORR. That you can easily believe, I realize that. But I think the figure was $30 billion, as opposed to $10 billion.

It is one of the little-known facts that the Japanese rail service has been building up a huge debt, the Japanese National Railway, over a long span of time, and they are now busting the system up in an effort to try to make it somewhat more efficient.

Whether they will ever be able to do that or not is questionable. But the point needs to be made that that rail system is often thrown up to me by people who find out that I am a member of the Board of Amtrak, why can we not have a rail system as they do in Japan?

Same thing is said in Great Britain and on the continent in Europe. Every one of those are heavily subsidized. And I think that it is important that the Congress assure the fact, and that we as members of the Board assure the fact, that we are wringing every penny out of the operation of that system and that we are doing our level best to cover that cost with as expansive a sales program as possible so as to make sure that the taxpayers bear the least of that cost.

But if it is necessary to have a passenger rail system, and I do strongly believe that it is, there will always be some subsidy.

Senator WILSON. Thank you very much, Governor.

Senator EXON. Thank you, Senator Wilson. Governor Orr, thank you very much and we appreciate your coming, and you are excused.

Governor ORR. Thank you, sir.

Senator EXON. Mr. Luna, we will be very happy to proceed with you. You are a longtime member of the Board.

In the opinion of this Senator, you have done an excellent job. And we are pleased that you have been recommended for reappointment. Would you proceed with any statement that you care to make at this time?

[The biographical sketch follows:]

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

(If more space is needed, please use attached REMARKS sheet)

A. BIOGRAPHICAL DATA

1. Name: Luna (Last) Charles (First) - (Other)

Address: 6326 Vivian Avenue (Current residence) Retired (Business)

Dallas, Texas 75223

2. Position to which nominated: Director, National Railroad Passenger Corporation Date of nomination:

3. Date of birth: October (month) 21, (day) 1906 (year) Place of birth: Celeste, Texas

4. Marital status: Married Full name of Spouse: Opal Lewis Luna

5. Names and ages of children:

Sharlie Ann Guthrie - born 01/01/33

Dan Luna - born 12/05/36

6. Education:

Institution	Dates attended	Degrees received	Dates of degrees
Celeste High School Celeste, Texas	1923-27	Diploma	-

7. Employment record: List all positions held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

From To	Name of employer	Address	Type of work
1/28 - 12/46	Santa Fe Railroad	Ft. Worth, Texas	Train Service
1/47 - 12/54	Santa Fe Gulf Lines	Ft. Worth, Texas	General Chairman
1/55 - 12/59	Brotherhood of Railway Trainmen	Cleveland, Ohio	Vice President
1/60 - 12/61	" " "	" "	Assistant to the President
1/62 - 12/68	" " "	" "	President
1/69 - 1/72	United Transportation Union	Cleveland, Ohio	President

8. Government experience: List any experience in or direct association with Federal, State, or local governments including any advisory, consultative, honorary or other part-time service or positions.

Named an Incorporator, in 1970, of the National Railroad Passenger Corporation

Named to the Board of Directors, in 1971, of the National Railroad Passenger Corporation by President Nixon; subsequently reappointed by Presidents Ford, Carter, and Reagan in 1974, 1978, and 1982, respectively

Consultant, 1977-1980, United States Railway Association (Labor consultant)

9. Political affiliations activities: List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last 10 years.

Democratic Party

STATEMENT OF CHARLES LUNA

Mr. **Luna**. I am just glad to be reappointed. I have enjoyed the privilege and pleasure of being one of the incorporators and being on the Board ever since it started.

Senator **Exon**. Anything else you would like to say, or is that it?

Mr. **Luna**. No.

Senator **Exon**. Well, that is short and sweet and to the point.

Senator **Danforth**. We are not used to statements that are that short around here.

Senator **Wilson**. With all due respect to the witness, you would never make it in the Senate. An admirable model for us to follow.

Senator **Exon**. Mr. Luna, you heard some of the questions that were put to Governor Orr.

The main thing, the health of the system, any ideas that you have as an original member of the Board, as to whether or not you believe we are moving in the right direction at the right speed, with the right emphasis?

Of course, we are all continually concerned about the subsidy to Amtrak. But I suspect that given the conditions that exist, that is going to continue to at least a considerable extent in the future.

But I would point out that significant, near as I can tell, significant strides have been made with regard to the original goals of Amtrak. And I compliment the Board for the good job that I think is done overall in this area.

I guess maybe a leading question would be, do you ever see the time in the foreseeable future when we could realistically, and I emphasize the word realistically, expect Amtrak to be totally self-sustaining, or without subsidy?

Mr. **Luna**. I do not think it will ever be totally self-sustaining. As the Governor said, no railroad in the world, passenger railroad is self-sustaining.

We are terribly, I am terribly worried, as I am sure the Board is, that we are handicapped on equipment. I think our ridership could increase a couple of million easy if we had the equipment to handle that many people.

Every piece of equipment we have is running beyond capacity, year round to just handle the trains that we have on now. And each train that I know of in the peak periods could handle two or three more cars loaded with people if we had the cars to put on the train.

Senator **Exon**. Is it not true, Mr. Luna, that with the expansion of new equipment that came into full bloom, I believe, about five years ago, that with that newer, modern equipment you saw a rather dramatic increase and acceptance of this mode of travel by the public?

Mr. **Luna**. Yes, sir. That is correct. It was new equipment, and what we inherited was worn out. It was not dependable. People would start on a trip and the air conditioning would go out. The heating would not be right. And it was not dependable and we lost some business before we had a chance to get equipment that we could depend on.

Senator **Exon**. Could you touch briefly on any plans, since the equipment is running, to use your words, even beyond its capacity?

Assume this were not a government-subsidized railroad. I would assume that if the business is out there to be tapped, as you indicate you think it would be if you had more equipment, that under circumstances other than subsidization, there would be a long-term investment of some type in capital investment to provide more and better equipment to make the railroad more revenue-secure in the future.

Mr. LUNA. I have never seen a business that had business available to make a profit that they did not try to figure out some way to obtain that business.

I am sure that if it was a privately-owned enterprise that some investment would be made to have equipment enough to handle the business that is out there.

Senator EXON. What activities are presently forthcoming from Graham Claytor and the Board to pursue that option?

Mr. LUNA. They are trying every way they can to find some way to raise money to get some new equipment.

In fact, we have three cars that will be on the line the rest of this year, which were made in our own shops—the prototypes that we are running to try to get the bugs out of them. So that if and when we do receive funds enough to buy new equipment, we will be ready to proceed along those lines.

Senator EXON. I assume that you are looking at bonds of some type?

Mr. LUNA. I do not know what kind of financing they hope to get on it.

Senator EXON. The Board has not gone into that in any detail.

Mr. LUNA. I am not on the finance committee. I did not study too good in school.

Senator EXON. Maybe you should be on the finance committee. Mr. Luna, thank you very much. I have no further questions.

And I simply wish to thank you for your time and dedication that you have put in as one of the Board of Directors, and appreciate your coming here now. You are welcome to stay, but no further questions.

Mr. LUNA. Thank you.

Senator EXON. Thank you very much. Mr. Trent, we are delighted to have you here this morning as a new appointee by the President. And I will be glad to entertain any opening statements or comments that you have at this time.

[The biographical sketch follows:]

A. BIOGRAPHICAL DATA

1. Name: TRENT (Last) DARRELL (First) MELVIN (Other)

Address: P. O. Box 2349 (Current residence)
Wilmington, Delaware 19899

One Rollins Plaza (Business)
Wilmington, Delaware 19899

2. Position to which nominated: Director, National Railroad Passenger Corporation

Date of nomination: January 22, 1987

3. Date of birth: August (month) 2, (day) 1938 (year)

Place of birth: Neosho, Missouri

4. Marital status: Divorced - June 1984

Full name of Spouse:

5. Names and ages of children:

Darrell Michael Trent — 19 Years Old
Derek Montgomery Trent — 13 Years Old

6. Education:

Institution	Dates attended	Degrees received	Dates of degrees
Kansas State College Pittsburg, Kansas	1956-1957		
Stanford University Stanford, California	1957-1962	AB	1961
International Law School The Hague, Netherlands	Summer 1961		
Wharton Graduate School of Business Philadelphia, Pennsylvania	Summer 1962		
Columbia Graduate School New York, New York	1962-1964	MBA	1964

7. Employment Record / Government Experience

FROM	TO	NAME OF EMPLOYER (*Firm or agency*) AND SUPERVISOR (*Full name, if known*)	ADDRESS (*Where employed*)	TYPE OF WORK	REASON FOR LEAVING
5/83	Present	Rollins Environmental Services, Inc. Wilmington, DE		Chairman of the Board	-
1/85	Present	Federal Home Loan Bank of Pittsburgh, Pennsylvania		Chairman of the Board	-
3/83	-	U.S. Ambassador & Chairman of the U.S. Delegation to European Civil Aviation Committee		Atlantic Aviation pricing negotiations	(Inactive)
1/81	5/83	U.S.Dept.of Transportation Washington, DC		Deputy Secy.of Transportation	To pursue interests in private sector.
11/80	1/81	Presidential Transition Team Washington, DC		Dir.of Policy	To accept new position.
8/80	11/80	Reagan for President Committee Arlington, VA		Senior Policy Advisor	Election 11/80
5/79	1/85	Reagan for President Committee Los Angeles, CA		Deputy Director /Consultant	Responsibility fulfilled.
10/76	5/79	Stanford University Hoover Institute, Stanford, CA		Assoc.Dir. & Sr.Res.Fellow	Leave of absence.
3/76	9/76	Citizens for Reagan Committee Washington, DC		Deputy Director	Leave of absence.
7/74	3/76	Stanford University Hoover Institute, Stanford, CA		Assoc.Director	Leave of absence.
9/73	7/74	Department of Commerce Washington, DC			
7/73	9/73	Housing & Urban Development Washington, DC		Consultant	
1/73	7/73	Executive Office of the President White House, Washington, DC		Staff - Admin.	
8/70	1/73	Executive Office of the President White House, Washington, DC		Staff - Admin.	To accept new position.
4/69	8/70	Deputy Asst. to the President White House, Washington, DC		Staff - Admin.	To accept new position.
3/69	4/69	General Services Administration Washington, DC		Commissioner	To accept new position.
1967	1969	Acton Development Company Pittsburg, KS		President	To accept new position.
1962	1967	Plaza Supermarket & Associates		Owner/Operator	To accept new position.

STATEMENT OF DARRELL M. TRENT

Mr. TRENT. Thank you very much, Mr. Chairman. It is a pleasure to be here and have an opportunity to appear as a nominee before this Committee.

I did not prepare an opening statement. I think there is an opportunity with Amtrak, and with the passenger railroad system, to improve and take advantage of what I see to be an increasing market.

For those of us that spend a lot of time on airplanes and traveling and see the number of passengers and the difficulty that you experience in air transportation, particularly on shorter routes, I think the chance for railroad passenger service to move more strongly into the market is quite significant.

I would hope to assist in the further development of Amtrak and in the continuation of the improvement of the operating record that has taken place in the last three to four years that I have followed the progress of the operation. Thank you very much.

Senator EXON. Thank you very much, Mr. Trent. Let me ask you just a few general questions, since you are a new nominee to the Board.

You have had some experience because of the previous positions that you have held that I alluded to in my opening comments. Do you consider yourself pro-Amtrak, anti-Amtrak, or neutral on Amtrak?

Mr. TRENT. I would very definitely consider myself pro-Amtrak.

Senator EXON. Pro-Amtrak.

Mr. TRENT. I think railroad passenger transportation is an essential part of our overall system, and would look forward to seeing that continue and improve.

Senator EXON. I took it, and maybe I took it wrong, but I never considered my friend, Drew Lewis, whom you worked with and for, pro-Amtrak. I figured that he was always anti-Amtrak.

Was I wrong in that judgment?

Mr. TRENT. Well, I think that Drew Lewis would also support the concept of passenger transportation, rail passenger transportation. Particularly on the northeast corridor, I do not think there is a reasonable alternative.

I think in other parts of the country, as the passenger service has increased, rail transportation continues to improve. I would not, with any of my discussions or experience with Drew, think that he would be opposed to Amtrak.

In fact, he would feel just as I think we all feel that we would like to see improved operating ratios, and I think that Amtrak has been moving in that direction since he and I left the Department of Transportation.

Senator EXON. Well, Mr. Trent, I simply hope that as a member of the Board you would be in a position to recognize what I refer to as a total concept system of Amtrak.

I recognize that there is an unquestioned need for Amtrak in the so-called northeast corridor, where we have a large population relatively short distances, and it is heavily used.

With regard to the rest of the country, there probably is even a more important need, and is generally recognized and realized by some. With the deregulation of the airlines, with the deregulation of the truck and bussing industries, we have seen the further deterioration of basic transportation services in rural America as a whole and in rural sections of states like Nebraska in particular.

I would simply point out that certainly Amtrak is not in the position, nor do I think it should be, or can be, to take the place that the railroad passenger travel once did in rural America.

But I just want to impress upon you as a nominee that in rural sections of our country, Amtrak does play an extremely key role, especially when it goes to places that essentially have no, or no reliable, air transportation service.

And there are some people who, for one reason or another, still do not wish to go and travel on an airplane. Therefore, Amtrak does play a very key role in that area.

I believe that if we can move forward, as Governor Orr has suggested, and Mr. Luna, an original member of the Amtrak Board has suggested, if we can figure out some way to expand the equipment and to expand the entrepreneurship that is obviously necessary to sell the good transportation systems that you have, then I think that we are going to continually move to a less and less subsidy of this railroad, while at the same time providing for a long-term assurance that rail passenger service would not be eliminated in the United States of America.

I recognize that there are geographical differences. I recognize that there are density of population differences. But in many countries today, rail passenger is still the strongest mode of transportation between many, many areas.

I think because our Nation is a big, wonderful and generally speaking a prosperous Nation, I believe it is important that we have a balance, and offer a balance to the people as to what mode of transportation they wish to choose and make that available to them.

I must say, and I do not mean to be critical of you, Mr. Trent, but I think to carry out my responsibility on this Committee, and as the subcommittee and the full Committee we must carefully consider your becoming a member of this Board, and we may be wrong.

So the questions that I am asking are not necessarily representing my point of view. But I do want to be up front with you that we have heard that you are less than enthusiastic about Amtrak.

Therefore I am trying to do everything that I can in this hearing today to assure, or reassure, to the contrary, some people who have some misgivings. It has come to my attention, and from several sources, that you may want to see Amtrak eliminated.

I do not happen to personally believe that. But at least I have heard that. And I would rather lay it out on the record now and my first question to you was in that regard. I guess some of that goes back to your previous government service.

In April of 1981, you accompanied former Secretary Drew Lewis at an appropriations subcommittee on transportation hearing. Secretary Lewis said at this hearing that you were supporting him and helping him answer questions.

Did you support his explanation of opposition to a nationwide rail passenger service, and the position that Amtrak should be fundamentally a corridor-type passenger service at that time?

Or were you doing that as an aide to Secretary Lewis and just being a good soldier?

Mr. **Trent**. I cannot speak for Secretary Lewis, but my recollection is that in the budget process that we undertook in 1981, and followed through with in 1982, our objective was to make Amtrak an operating agency of the government with much reduced subsidy.

And as has been pointed out, that has occurred. I think the improvement that we have seen in Amtrak's operating record has been substantial. I do not really believe that at this stage without government involvement you are going to have a rail passenger service as it is currently operating.

I did work in the White House in 1969 and 1970, and coordinated transportation policy, and worked very closely at that time with Paul Charington at Department of Transportation, and we were looking at the crisis in the rail transportation system.

And I think my record in the papers that are on file as a part of that administration would support the fact that I did pursue and support the original concept of moving toward the preservation of rail passenger transportation in the United States, and passed on to Henry Cashin, who took my place when I left the White House, what turned out to be the formation of Amtrak at that particular time.

I think that we have to continue to push for an operating agency, an operating corporation, an operating entity that costs the people, the taxpayers as little as possible. And I would bring, I think, business experience as well as public service experience to try to accomplish that.

Senator **Exon**. Well, I appreciate your frankness and I appreciate your statement, Mr. Trent.

I guess what I am drawing from that is that you are assuring us in this hearing that you believe that the Amtrak system, and I talk about the system in the context of what I had said earlier, that this is and should be an important part of America.

And while I would agree with you, and I think all of my colleagues on this Committee would agree with you, that we would like to see it self-sufficient. I have said just as forthrightly as you have testified today that I am not sure that I view that in the foreseeable future.

But I can take it then from your statements that as a member of the Board of Directors you would be on the part of the team that would want to improve and make Amtrak more and more efficient and self-sufficient in the interests of continuing a rail passenger service to the people of the United States.

I am not trying to put words in your mouth. But I am trying to tell you what I heard you say. Is that a fair interpretation in my words of what you were implying?

Mr. **Trent**. Yes, Senator. I would say that is a very fair interpretation.

I would further point out that I would go to the Board with a commitment to continue to improve the efficiency, to continue to reduce the subsidy, to continue to build the system so that it can carry the passengers that are out there, to upgrade the equipment and make it more efficient, more revenue, to help offset the costs that are inherent in the system.

Senator EXON. Mr. Trent, you commented on several important improvements Amtrak has made recently through updating terminals, and better promotional programs and so forth that we have touched on with previous witnesses.

If confirmed as a Board member, what additional improvements or facilities and services would you think would be appropriate to be initiated? I mean, I am just asking a general question that you can take off on in any form that you like.

With your considerable background, expertise, and experience, I think you would bring something to the Board. Do you have any specific ideas or general ideas that you feel that you would be promoting as a member of the Board to help the overall success of Amtrak?

Mr. TRENT. In the development of the system during the period that I served as Deputy Secretary of Transportation, I participated in the funding programs, recommendations to Congress on upgrading Amtrak and did participate in the dedication of different terminals along the northeast corridor.

I think the effort in Union Station and its upgrading is a very important one, and will make it a much more attractive system from Washington to serve in this area.

I am very pleased to say that in Wilmington, DE, where I participated in the dedication, even though I had not previously had an association with that community, that we do have a very nice terminal.

We do have a very much improved ridership from that area. We have upgraded that section of town there with Federal support, a parking area and the development of a whole part of the city that previously had become very run down.

I think the people are responding there with additional patronage of the system. As you ride up and down the northeast corridor and look at other parts of the country, I think other terminals need to be upgraded.

I think there is a particular opportunity right now to attract passengers to Amtrak by showing courtesy and consideration, and actively going after them. There was a time when the airline industry was the leader in passenger service and passenger comfort.

And as you walk through the terminals today and see the congestion because of limited facilities that we have there, you recognize that there are a lot of people that would spend a little more time not sitting in an airplane on the ground or going through a hub if they had an opportunity to ride with comfort and in good equipment between points during peak hours at reasonable speeds and for reasonable periods of time.

One of the programs that we did support when I was at the Department of Transportation was the spending of $2.19 billion on the northeast corridor to upgrade the rail system. And I think that did make some improvement.

However, on a comparative basis between the comfort of riding in this country and in Japan and in France on their rapid transportation systems, you can ride on a train in Japan and you can ride on a train in France.

But on even the best trains on the northeast corridor, because of the condition of the roadbed, that is a very difficult proposition. I think as better service is provided, higher revenues can be received.

And by pushing in that direction, as has been suggested by some of the other nominees, we can increase the financial, improve the financial position of Amtrak.

Senator EXON. I agree with you completely, Mr. Trent. It seems to me that especially with the difficulties that we are going through with airline schedules today, which we hear about on this Committee and which I am directly involved in as a member of the aviation subcommittee.

There is great turmoil in the airline industry with regard to delays. People are attracted with the comparatively low rates. But we feel that there is increasing tension out there today.

It seems to me that if the Amtrak were a private industry, they would be able to move in and reap some rewards from the present dissatisfaction generally of the airline passenger industry.

It seems like a golden time to maybe strike here, and by and large you do an excellent job, I feel, in advertising. If you are going to Philadelphia or New York, possibly even Boston from here, you can make it in three hours without the hassle, and be assured that you are going to be there. It seems to me that that is something you should take advantage of.

I have just one last question, and this is controversial question. But I think that sometimes it is better to lay these things out and give you a chance to make a reply, rather than to have these controversial things laying the background.

So I am going to ask you this question mainly for the purpose of satisfying for this record as to what your answer was. And it has to do with some office space in DOT that you are familiar with, I am sure.

You report that you maintained office space at DOT after your employment as Deputy Secretary. You indicated that this space was provided for you in your capacity as a U.S. ambassador and chairman of the U.S. delegation to the European Civil Aviation Committee.

My question is, is it a practice of DOT to provide office space to a private businessperson who is serving as a chairman of a delegation as you were at that time?

Mr. TRENT. Senator, in that particular position I was nominated by the President and confirmed by the Senate as an ambassador to the European Civil Aviation Committee, and because of the procedure that was followed was asked to remain after I had resigned from the Department of Transportation.

I was paid by the Federal Government during that period of time. I did work to accomplish a multilateral agreement, which was done in November, I believe, of 1985. And shortly thereafter was no longer paid, was taken off the rolls as a paid employee, and have not occupied the space since that time.

I have never occupied space in Washington as a part of the Department of Transportation or any other department, except for government work and was paid by the government for the time that I put in.

Senator EXON. That is a fair answer, it seems to me. I guess what you are saying is, being nice enough to not to say it, is my question implied, my question stated is it typical for DOT to provide office space to a private businessperson.

At that time you were not a private businessperson. You indeed at that time were still a paid employee of the Federal Government. Is that accurate?

Mr. TRENT. That is accurate. In fact, honored with the title of ambassador of the United States of America.

Senator EXON. That is satisfactory with me. Mr. Trent, are there any other comments or statements that you would like to make at this time? I have no further questions.

Mr. TRENT. Just thank you very much, Mr. Chairman. It has been a pleasure to be here. I hope that I have an opportunity to work with Amtrak to continue to improve the system.

Senator EXON. I thank you, and I would simply say that I think your testimony today will go a long way to allay any fears that some may have had that you would not be as supportive of Amtrak as some of us would like to see.

And I suspect that you will be confirmed, and I am sure the other two nominees will be. And I appreciate your taking the time and trouble to come here and answer some questions today that I felt had to be answered I think for the long-term good of you, this Committee, and certainly Amtrak.

Thank you very much, Mr. Trent.

Mr. TRENT. Thank you, Mr. Chairman.

Senator EXON. And thank you, Mr. Luna. You are excused, and we are adjourned.

[Whereupon, at 3:00 p.m., the hearing was adjourned.]

[The following information was received for the record:]

PREHEARING QUESTIONS OF THE MAJORITY AND THE ANSWERS OF GOVERNOR ORR

Question 1. In your April 29, 1985 testimony before this Committee's Surface Transportation Subcommittee on the reauthorization of funding for Amtrak, you mentioned how service and operations of Amtrak had improved. Could you please describe any improvements that have occurred since that time?

Question 2. In your 1985 testimony, you asked Congress to challenge the Amtrak management to develop proposals which over time can continue to reduce the reliance on Congressional appropriations for operating expenses. You suggested that Amtrak's management was already in a position to offer proposals that would reduce costs by getting into private sector partnerships associated with real estate holdings and congeneration of electric power and station facilities. Since 1985, what progress has Amtrak made in finding private sources of income and identifying supplemental profit centers?

Question 3. There have been news reports about the States having a tax surplus due to the end of the 1986 year rush to sell stocks and property in order to best the changes in the tax laws that increased the tax on capital gains. In light of these recent tax surpluses in the States, specifically in Virginia and Maryland, would it now be possible for the States to somehow subsidize Amtrak, without getting involved in the everyday running of the system?

Question 4. In 1985 testimony, Graham Claytor, President of Amtrak, mentioned that to decrease costs, Amtrak took Northeast Corridor labor off mileage payments and put them on a standard 40-hour-work-week. The saved Amtrak $20 million in fiscal year 1986. Has Amtrak been able to do this in other areas of the country? If not, are there current negotiations underway to do this?

Question 5. What plans, if any, has Amtrak for selling the use of their right-of-way to non-railroad entities, such as the fiber optics industry, in order to generate more income?

Question 6. What do you see as Amtrak's top priorities this year and next?

Question 7. Given the recent Amtrak/Conrail accident in Chase, Maryland, as well as the additional attention that has been focused on rail safety, what recommendations do you have to improve safety for Amtrak passengers and employees? What are your views regarding the safety aspects of mixing freight and passenger traffic in the Northeast Corridor?

Question 8. In recent years, Amtrak has covered an increasing proportion of its operating costs from earned revenue, as directed by legislation. What suggestions do you have further reduce Amtrak's revenue-to-cost ratio?

Question 9. As a representative on the Amtrak Board of state governors, in what ways do you feel you have influenced the relationship between Amtrak and the States?

Answer 1. The improvements in service and operations are so numerous that I will mention only a few that will give the Committee a perspective of the wide range of efforts now under way. Significant investments are being made to improve both quality and safety on routes owned by the corporation and to replace aging structures Amtrak inherited from its predecessor railroads. Amtrak's successful pursuit of mail contracts is producing two benefits—a true profit center in the form of mail revenue, and expanded service on certain routes where mail volume has justified increasing train frequencies. Amtrak's *Broadway Limited* and *Capitol Limited*, which formerly ran as a combined train between Chicago and Pittsburgh, now provide twice-daily service along this route. It is primarily the result of increased mail business.

Station facilities continue to be upgraded. One of my main concerns about Amtrak when I joined the Board in 1982 centered on the fact that many of our stations were in terrible condition—to an extent that deterred ridership. Amtrak is making steady progress though renovation or outright replacement of worn-out stations. This is an ongoing effort—frequently with state and local financial support.

A number of important amenities have been added to Amtrak service: on-board telephones in Amtrak's Metroliners, arrangements for Hertz auto rentals at stations, improved station concessions, self-service ticketing, and similar improvements which provide a genuine service to the Amtrak rider, enhance our image and marketing appeal, and in some cases provide additional revenue. Food service continues to improve and the Board recently has given considerable attention to assure that trains are properly stocked with food.

A combination of breakthroughs is improving the corporation's ticketing and reservations system. Reservation sales offices have been consolidated. Amtrak now is part of the Airlines Reporting Corporation to facilitate interline ticketing and reservations. Thousands of additional travel agents can write Amtrak tickets because Amtrak now is included in United Airlines' computerized reservation system.

Within a few months, the corporation will begin road-testing three prototype cars now being assembled at Amtrak's Beech Grove, Indiana facilities. They represent the new generation of rail passenger equipment for the 1990's. Many challenges remain, but I am excited about Amtrak's progress.

Answer 2. We have seen measurable results and there are even brighter opportunities on the horizon. I've already mentioned the expansion of Amtrak's mail business and its two benefits. A successful co-generation venture is in place in New Haven. Negotiations for another in the Philadelphia area are at an advanced stage. There are literally dozens of cases in which private sector investments have been arranged on properties adjacent to Amtrak stations or in the stations themselves. In addition to providing new revenues for the corporation, these ventures often produce station improvements that Amtrak does not have to pay for. They also provide more services and a better atmosphere for the traveler.

Projects now beginning at Chicago's Union Station, New York's Pennsylvania Station, and Thirtieth Street Station in Philadelphia will dramatically improve these facilities and produce significant annual revenues. Ongoing, long-term real estate revenue streams may open new doors to Amtrak for obtaining future capital funding from the private sector for revenue diversification projects.

Amtrak's recent contract to manage commuter operations for Boston's MBTA is important in three ways. It is a profit center. It is tangible proof that Amtrak management is of sufficiently high quality to be in demand in other sectors of the transportation industry. In time, I expect it to produce additional ridership for Amtrak because the commuter service can feed riders to the national system. Interestingly, a number of other cities have begun exploratory discussions with the corporation about similar commuter management arrangements. I am certain that the corporation could provide you with more detailed financial results of these enterprises.

Answer 3. It should be kept in mind that while the tax law may have generated additional revenues, this is a one-time phenomenon that does not provide a durable stream of funding for rail subsidies or any of a number of other uses that states might foresee. It should also be kept in mind that state governments are under pressure to fund a number of high-priority projects. The disappearance of federal revenue sharing to local governments has placed added burden on the states. Many states—including Indiana—are making massive investments to improve the quality of education. In Indiana we faced up to the fact that to meet our responsibilities in education we raised taxes in our 1987 legislative session. States don't raise taxes when they are flush with cash.

Moreover, I don't think it is practical to think that states will subsidize Amtrak without wanting to have a voice in how that money is spent. Certainly, both the Congress and the federal Executive Branch Departments exert extensive supervision over federal funding provided to Amtrak and countless other functions. Is it reasonable to expect that the states would be different? I don't think so. Additionally, such an arrangement runs counter to the existing and historic relationship between Amtrak and the states. A number of states have provided financial assistance to Amtrak—but always for a specific state objective, whether that be state-subsidized train service through the 403(b) program or a specific capital project such as the current arrangement between Amtrak and New York on the "Westside Connection."

Answer 4. The corporation is in the final stages of completing a transition that accomplishes two purposes and has its roots in the successful negotiations in the Northeast Corridor. Crews that formerly were employees of the railroads over which Amtrak operates are becoming Amtrak employees. The mileage standard is being replaced by an hourly approach to compensation. This process has been carried out in phases—by region of the country and by railroad within each region—and I believe that it will be completed later this year.

Answer 5. Fiber optics is one of the corporation's most shining success stories. It is a result of aggressive business development coupled with three farsighted decisions made at the outset of Amtrak's involvement. First, Amtrak would not "sell" right-of-way space on its Northeast Corridor routes for fiber optics purposes but would only enter into lease arrangements that retained operational control of this right-of-way in Amtrak's hands. This is important to prevent interference with train operations but it also signifies management's commitment not to yield control of what it recognizes to be a valuable asset. Second, although a few private sector interests wanted Amtrak to give them exclusive leases, the corporation wisely refused to do so. Third, in its original arrangement with MCI, Amtrak reserved for its own purposes (either for Amtrak communications or for resale) a portion of the capacity.

To date, the corporation has successfully executed leases with MCI, Cable & Wireless, and Fibertrak. Fiber optics has produced about $30 million to Amtrak in revenues from leases and resale, and another $10 million in communications savings. The wisdom of retaining some capacity became evident earlier this year. Advances in fiber optics technology have dramatically boosted the capacity of fiber optics strands. By making a one-time investment of about $3 million to upgrade its reserved strands, Amtrak will be able to realize an annual $3 million income from the resale of this added capacity. Although fiber optics development nationwide has tended to move in spurts, then stall as over-capacity is temporarily reached, the long-term outlook for additional business arrangements remains quite promising. Amtrak's Northeast Corridor is the most attractive link between eastern seaboard metropolitan areas because there are no grade crossings on the New York-Washington Corridor.

Answer 6. I believe that Amtrak should and will focus on the following five priorities, each of approximately equal rank.

1. Continue to build upon its recent accomplishments in improving revenue-cost ratio. Further improvements can be made, but this will be a very challenging task because additional increments of cost-cutting become progressively more difficult to attain and because excess capacity and rate-cutting in the airline industry tend to put downward pressure on the revenue side.

2. Continue to improve the quality of service provided to rail passengers. This takes many forms, ranging from the efficiency of reservations and ticketing to passenger amenities at stations and on board the trains, to the professionalism and courtesy of Amtrak employees, to on-time performance, and the like. Considerable progress has been made across the board, but we must always strive to satisfy the customer in the highly competitive travel and tourism industry.

3. Focus on those capital investments which provide the greater rates of return, and find additional sources of capital to accelerate the peace of these projects in order that financial savings are not further deferred. Amtrak is in a rather difficult position in this regard. Because of financial constraints the corporation does not have a great deal of flexibility in making capital investments. Historically, Amtrak has not had access to conventional private sector debt financing to finance capital investments that have solid rates of return because of lender uncertainty about its long-term prospects. It is frustrating to have to defer investments that would provide added revenues or cost savings. Somehow, we have to work our way out of this cycle.

4. Develop a funding strategy for the next generation of passenger equipment. Amtrak's "Heritage" fleet must be replaced in 1990s. We are short of certain types of equipment right now. The funding approach must come up with a way to provide multi-year, predictable capital funding in order that this equipment can be purchased in an orderly manner and at the lowest possible costs.

5. Continue to improve the professionalism and the productivity of the Amtrak work force at all levels, while accelerating our effort to retain our best people. Amtrak has been fortunate to keep most of its talented employees, despite the higher pay available to them in other segments of the transportation industry and despite periodic uncertainties about Amtrak's future. Our top management and middle-management personnel are in demand elsewhere. We cannot afford to lose them. In order to accomplish Amtrak's personnel objectives, the pay cap must be eliminated. The cap keeps the corporation's compensation levels well below those of the publicly-financed transit industry and comparable operations in the private sector.

Answer 7. I would strongly suggest that Congress consider enacting legislation requiring federal regulation of mandatory random drug and alcohol testing for all safety-related railroad employees, with provisions to assure that such testing is truly random and that each railroad has in effect an appropriate approved alcohol and drug rehabilitation program comparable to what is known as "Operation Red Block."

In addition, Amtrak has submitted a number of safety-related projects to Congress that would enhance the safety of the high speed Northeast Corridor if funded under the Northeast Corridor Improvement Project. I understand that some of these projects are included in the House Transportation Appropriations bill. I would hope that the Senate would also include these projects in its Transportation funding bill.

Finally, I am supportive of Amtrak's efforts to reduce freight traffic in the Northeast Corridor and I believe Amtrak has taken appropriate actions to achieve that goal.

Answer 8. Responses to the foregoing questions touch on a number of areas of emphasis which do not require restating. It is important to underscore the fact that while improvements can be made, it will become progressively more challenging. At some point, the corporation will not be able to make a quantum leap forward in balancing the revenue and cost equation without increasing the density of its system. Increasing the frequency of service on selected routes would add revenue at a much faster rate than additional costs would be incurred. Station operating costs, for example, increase only modestly as trains are added in a particular market. The corporation will achieve this breakthrough only by adding to the size of its equipment fleet. Amtrak requires a substantial infusion of capital if it is to continue to provide quality service to its existing markets, achieve its full ridership potential, and achieve dramatic further improvements in its revenue-cost ratio. We don't have enough equipment. A decision by the Congress to provide sufficient capital for new equipment would, in my opinion, prove cost-effective in the long run.

Answer 9. I believe that I have helped to improve the communication between Amtrak's management and the nation's governors. I believe that I have brought a "state perspective" to the Amtrak board, which is important because the corporation has extensive dealings with the states and needs to understand fully how state governments do business. On those occasions in which governors have expressed concerns about Amtrak service or policies, I have endeavored to be a conduit of information to help resolve these situations. The decision by the Congress to include a representative of the governors on the corporation's board has, in my view, had beneficial results.

PREHEARING QUESTIONS OF THE MAJORITY AND THE ANSWERS OF MR. LUNA

Question 1. What do you see as Amtrak's top priorities this year and next?

Answer 1. Amtrak's top priorities for this year and next include focusing on new ways to reduce Amtrak's dependence on federal support, improve its revenue-to-cost ratio, and continue to improve both the safety and the quality of service Amtrak provides, particularly through better on-time performance.

Question 2. In 1985 testimony, Graham Claytor, President of Amtrak, mentioned that to decrease costs, Amtrak took Northeast Corridor labor off mileage payments and put them on a standard 40-hour-work-week. Has Amtrak been able to do this in other areas of the country? If not, are there current negotiations underway to do this?

Answer 2. Amtrak has reached agreements with the Brotherhood of Locomotive Engineers and the United Transportation Union which allow Amtrak to directly employ train and engine crews operating trains nationwide over tracks owned by the freight railroads. These agreements are similar to the agreements covering the Northeast Corridor referenced above.

Question 3. As labor's representative to the Amtrak Board, what are your views on Amtrak's 1987 proposal that Congress enact legislation which would require state workers' compensation laws to be the exclusive remedy with regard to work-related claims against Amtrak?

Answer 3. The Federal Employers Liability Act (FELA) was adopted by Congress in 1908 to bring uniformity to the area of the law covering compensation for injuries resulting from employment in the railroad industry which frequently requires employees to perform services in more than one state. All railroad employees, including those of Amtrak, should remain under the same law with respect to compensation for injuries because the reasons for the adoption of FELA remain the same, and railroad employees should not be subject to differences in various state laws dealing with compensation for their injuries.

Question 4. It seems that one of the biggest potential areas of concern for railroads and railroad workers lies in the area of retirement benefits, where there are now 3 retirees for every 1 active rail worker. This poses the potential of increasing financial burdens for both industry and workers. Do you have any views or proposals regarding this?

Answer 4. The Railroad Retirement System was established by law as a self-supporting system. All Railroad Retirement taxes are paid directly into the Federal Treasury, and the payment of benefits imposes no cost on the general tax payers.

I understand that the Railroad Retirement System should remain solvent until the year 2004. Congress is currently considering legislation to address the funding shortfalls of the System, including the establishment of a Commission on Railroad Retirement Reform to study alternative methods of serving the long-term viability of Railroad Retirement.

Amtrak should not be permitted to withdraw from the Railroad Retirement System because the resulting reduction in revenues could destabilize the System financially. All railroad employees including, Amtrak personnel, should be under the same Railroad Retirement System because most of Amtrak's older employees came from other railroads and have worked under the System almost since its inception.

Question 5. What plans, if any, has Amtrak for selling the use of their right-of-way to non-railroad entities, such as the fiber optics industry, in order to generate more income?

Answer 5. To date Amtrak has entered into nine agreements for use of its right-of-way for fiber optics cables. Amtrak plans to continue seeking to enter into new agreements, on a non-exclusive basis, with companies who are interested in using Amtrak's right-of-way for installation of fiber optics communications cables.

Question 6. Given the recent Amtrak/Conrail accident in Chase, Maryland, as well as the additional attention that has been focused on rail safety, what recommendations do you have to improve safety for Amtrak passengers and employees? What are your views regarding the safety aspect of mixing freight and passenger traffic in the Northeast Corridor?

Answer 6. In the aftermath of the Chase, Maryland train accident, Amtrak identified a number of important safety-related measures such as communication and signal upgrades, passenger modifications (baggage and on-board equipment restraints and seat locks) and locomotive modifications (event recorders, cab signal test boxes, touch type alerters and warning alerters). These include projects which were identified in Amtrak's fiscal year 1988 grant request and in testimony before this Committee. I believe Amtrak also requested that the Senate Commerce Committee report favorably on amendments to the 4-R Act to include the needed safety measures that are not already listed in that Act. I would favor enactment of a statute requiring the installation of automatic train and speed control of the type now on all NEC Amtrak passenger engines on all freight and commuter locomotives and self-propelled cars operating on the NEC. I also support Amtrak's efforts to eliminate operation of through-freight trains on the NEC.

Question 7. In recent years, Amtrak has covered an increasing proportion of its operating costs from earned revenue, as directed by legislation. What suggestions do you have to further reduce Amtrak's revenue-to-cost ratio?

Answer 7. Amtrak has reduced its dependence on federal support by over 52 percent (in constant dollars) since 1979. Much of this is due to determined efforts of Amtrak's dedicated employees and a heightened emphasis on minimizing costs. If Amtrak is expected to continue to reduce operating costs, it must have an adequate capital budget to allow continued upgrading of its obsolete maintenance facilities and equipment. I have several suggestions which are more specific:

a. To increase revenue, Amtrak should handle the majority of U.S. mail and small package business both in urban corridors and between long-haul endpoints. Further, consideration should be given to operating all trains daily when incremental revenues, including revenues from new U.S. Mail contracts, would exceed incremental costs. More equipment should be provided so more passengers could be handled.

b. To decrease costs, Amtrak and its employees under collective bargaining agreements have signed a series of agreements greatly increasing productivity. Now Amtrak must determine whether some savings could be made in the level of supervisory employees and the labor-intensive reservations system. Also, Amtrak must re-examine the amounts paid to the contracting railroads as incentives for on-time performance in view of the fact that Amtrak has assumed responsibility for performance of most functions necessary for the operation of Amtrak trains, and the contracting railroads have been relieved of the losses from intercity passenger services since the inception of Amtrak.

PREHEARING QUESTIONS OF THE MAJORITY AND THE ANSWERS OF MR. TRENT

Question 1. You have served in a number of government and policy related positions including Deputy Secretary of Transportation. How do your past experiences qualify you to serve as a member of Amtrak's Board of Directors?

Answer. Since 1968 I have worked in a number of positions that have related to public policy development and administration. I have also worked during two extended periods of time for corporations in the private sector.

Amtrak is a unique combination of public and private sector interests that would draw on my previous experience. It is not possible to operate a Company such as the National Railroad Passenger Corporation in the same manner and with the same procedures as would be normally followed in the private sector. I believe that I would be able to draw on my experience in both the public sector and the private sector to contribute as a Director of Amtrak.

Question 2. In determining Amtrak's future funding, Congress debated at length the issue of retaining a national rail passenger network. With the passage of the Consolidated Omnibus Budget Reconciliation Act of 1985, Congress reaffirmed its commitment to such a system. If confirmed as an Amtrak Board Member, how would you view your role in ensuring that such a commitment is carried out? What are your views toward Amtrak as an integral part of the transportation network?

Answer. I think a national rail passenger network is important to the continued development of a strong and viable national economy. Amtrak is an integral part of the transportation network. As a Board Member of Amtrak I would work to improve and further develop the national rail passenger system.

Question 3. As you know, rail passenger service is a governmentally subsidized function in almost every industrialized country in the world. Do you believe it should be so in the United States, and should rail passenger service continue to be provided by a quasi-governmental corporation receiving public subsidy?

Answer. Government subsidies for rail passenger service in the United States have been necessary because of limited revenues and high operating costs. It should be the goal of Amtrak, just as it was the goal of Conrail, to run a profitable operation. Many steps can be taken to improve revenues and costs should be carefully evaluated to improve operating efficiency.

Question 4. As an Amtrak Board member, what would you hope to accomplish?

Answer. I hope to contributre whatever business and governmental expertise I have developed to assist in the improvement of a transportation system that has tremendous unrealized potential, especially through added numbers of passengers to increase revenue.

Question 5. What do you see as Amtrak's top priorities this year and next?

Answer. From a businessman's point of view, I would like to encourage a careful evaluation of the potential for increasing the number of passengers travelling on Amtrak. The increased automobile traffic around metropolitan centers and the added congestion of the air traffic system has led this year to travel delays on the Northeast Corridor to the point that it is becoming a more economic use of time to take the train. I would suggest more attention to the detail of traveler comfort, more services for the traveler, frequent traveler programs that have worked so well for the airlines, special fare packages such as family plans, etc. I have traveled a great deal on Amtrak these last few years and have seen tremendous contributions to the system through new and improved terminals and better promotional programs. Much has been accomplished, but much remains to be done. I would like to be able to assist in the further development of the system.

Question 6. In your questionnaire, you mention that the Northeast Corridor is the best example of a population distribution that requires rapid rail transportation. You also say that much remains to be done in developing the utilization of the Northeast Corridor. As a member of the Amtrak Board, how would you seek to further develop the utilization of the Northeast Corridor? What do you feel is the proper role or need for rapid rail transportation outside of the Northeast Corridor?

Answer. An intensified marketing effort to increase the usage of the Northeast Corridor would be one important initiative. A further emphasis for improved facilities. Customer relations programs and improved attention to detail that would make traveling by train more attractive to the paying customer could all contribute to better utilization of the Northeast Corridor.

Rapid rail transportation serves different needs in different parts of the country. I would think that the California market could be expanded and improved as well as other population centers. Consideration should also be given to rapid rail service in other areas that can demonstrate market demand and reasonable returns on investments.

Question 7. How would you improve facilities and services of Amtrak?

Answer. The marketing and facility improvement programs that are underway should be intensified. A determination should be made on why it is possible to comfortably ride and write on European and Japanese rapid rail systems and impossible to do the same on our system.

Question 8. Given the recent Amtrak/Conrail accident in Chase, Maryland, as well as the additional attention that has been focused on rail safety, what recommendations do you have to improve safety for Amtrak passengers and employees? What are your views regarding the safety aspects of mixing freight and passenger traffic in the Northeast Corridor?

Answer. The standard approach is an intensive review of safety procedures and practices. I think this review and evaluation is certainly in order. Facts should be carefully collected and evaluated on the safety aspects of mixing freight and passenger traffic in the Northeast Corridor.

Question 9. In recent years, Amtrak has covered an increasing proportion of its operating costs from earned revenue, as directed by legislation. What suggestions do you have to further reduce Amtrak's revenue-to-cost ratio?

Answer. This legislation has certainly focused management's attention on the correct issue. Further emphasis on the business aspects of Amtrak would certainly seem to be in order to comply with this legislative directive.

Question 10. On your resume, you indicate you have served since March 1983 as U.S. Ambassador and Chairman of the U.S. Delegation to the European Civil Aviation Committee, currently on inactive status. Would you describe what your duties in this capacity have been?

Answer. I am pleased to report that the U.S. Delegation successfully negotiated the first multilateral international pricing agreement for the North Atlantic. This agreement was the culmination of several years effort between the United States and the European nations. It established zones of pricing flexibility for carriers on both sides of the Atlantic and helped educate the European carriers on the lessons learned for airline deregulation in this Country. The implications of the ECAC agreement are still evident in the operation of the Atlantic market.

As Chairman of the United States Delegation my job was to formulate the U.S. position and clear the position with the different Departments and Agencies as well as the U.S. carriers. I then chaired all of the negotiations up until the time of the final agreement in late 1984 and signed the agreement on behalf of the United States Government.

Question 11. It has been reported that after May 1983, when you were no longer employed by the Department of Transportation (DOT), you continued to use office space and resources there. Is this true? What was the exact date that you vacated the offices at 400 Seventh Street?

Answer. I was carried on the rolls of the Federal Government as Chairman of the United States Delegation from May 1, 1983 until January 1, 1985. The Delegation was assigned office space and provided resources in the Department of Transportation Building during that period.

Question 12. Would you briefly describe any published books, articles or reports you have written which relate to transportation policy? Please submit two copies of these as well as copies of speeches you may have made since 1980 which relate to Amtrak.

Answer. I wrote "Transportation Policy, Goal and Accomplishments" which was published as a chapter of "To Promote Prosperity: U.S. Domestic Policy in Mid-1980's", Collection of Essays, John H. Moore, Editor, Hoover Institution Press, 1984.

JACK EDWARDS TO BE A MEMBER OF THE BOARD OF DIRECTORS, METROPOLITAN WASHINGTON AIRPORTS AUTHORITY

WEDNESDAY, JULY 29, 1987

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The committee met, pursuant to notice, at 9:35 a.m., in room SR-485, Russell Senate Office Building, the Hon. Wendell H. Ford presiding.

Staff members assigned to this hearing: Steve Palmer, professional staff member; Harris Livingstain, staff counsel; and Macky Ayers, minority professional staff member

OPENING STATEMENT BY SENATOR FORD

Senator FORD. Good morning, ladies and gentlemen.

This full committee hearing is to consider the nomination of Jack Edwards to become a member of the Board of Directors of the newly established Metropolitan Washington Airport Authority.

This position is somewhat unique. It was established to represent the interests of the people outside of the Washington, DC, area who use National and Dulles International Airports.

The term is for six years in length, designed to provide the longevity needed to insure that these two airports are properly developed and operated. With this hearing we will attempt to explore Mr. Edwards' general philosophy toward airport management, as well as his particular concerns about these two airports.

In this regard, it is important that we hear of any specific proposals Mr. Edwards intends to make and to put forward to the governing Board of Directors.

Mr. Edwards comes to this committee with a very distinguished background in government. A ten term member of the House of Representatives, Mr. Edwards retired in 1985 to return to his native Alabama to practice law. I said to Mr. Edwards a moment ago that he certainly looked brown and relaxed, and that indicates how good you feel when you get out of government.

He is to be presented this morning by the distinguished Senator from Alabama, Senator Heflin. Senator Heflin, we'll hear from you first this morning.

STATEMENT OF HON. HOWELL T. HEFLIN, U.S. SENATOR FROM ALABAMA

Senator HEFLIN. Mr. Chairman, I have a statement of introduction that I'd like to have entered into the record.

Senator FORD. I have the original copy of your statement, Senator. It will be included in the record in total.

Senator HEFLIN. I would like to briefly summarize Congressman Edwards' career.

He graduated from the University of Alabama with a Bachelor of Science degree and a law degree. He was also president of the student body. He then served in the Marine Corps for several years. Then he taught Business Law at the University of Alabama and began the practice of law in Mobile in 1954.

In 1964 he was elected to Congress and served for 20 years, where he distinguished himself. He served as the ranking Republican on the House Defense Appropriations subcommittee and was very influential in the development of our national defense.

He is an individual who has been active. Mr. Chairman, you and I were interested in the Ten Tom. He led the fight in the House of Representatives, and he did many other things, including the establishment of the Bonn Secour National Wildlife Refuge. I could list all of his accomplishments, but I think you have them there and they'll be a part of the record.

But he has had a remarkable career. Over the years he accumulated an unbelievable statistic of getting 67 percent of the votes in the elections throughout his entire career. That's an average, which is a remarkable support that the people gave him.

He is a very thoughtful individual in my judgment. He is a very reasonable individual. I am delighted to introduce him and urge that the committee act favorably and expeditiously on this nomination.

[The statement follows:]

STATEMENT OF HON. HOWELL HEFLIN, U.S. SENATOR FROM ALABAMA

Mr. Chairman, I would like to thank you for the opportunity to testify on behalf of former Congressman Jack Edwards to be a member of the Metropolitan Washington Airport Authority. Everyone who knows Jack Edwards holds him in the highest regard for his intelligence, integrity and selfless dedication to the public. Jack has had a long and distinguished career in the Nation's service and would be an outstanding addition to the Airport Authority.

His public service began soon after he received his Bachelor of Science and law degree from the University of Alabama. He served in the U.S. Marine Corps from 1946 to 1948 and from 1950 to 1951. He taught Business Law at the University of Alabama, and then practiced law in Mobile from 1954 until 1964. Congressman Edwards then served in the United States House of Representatives from 1964 until 1984. In those twenty years, Jack Edwards gained a reputation among his colleagues and constituents as a thoughtful, articulate leader who could recognize problems and then find a workable solution.

During his tenure in the House of Representatives, Jack Edwards distinguished himself by his concern for both his nation and his district. As ranking Republican on the House Defense Appropriations Subcommittee, he was one of those who recognized the need to revitalize our armed forces during the 1970s. He then helped bring this condition to the attention of the American people. Because of his expertise and the respect his fellow Congressmen had for him, Jack Edwards often found himself in the role of Presidential adviser, a role he gladly carried out for Presidents of both parties.

Mr. Chairman, Mr. Edwards dedication to our national interests did not come at the sacrifice of his home district. Although there is not enough time in this hearing to discuss all of the many projects which bear his mark, I would like to give a few examples: he was an early and ardent supporter of the Tennessee-Tombigbee waterway; he helped with the completion of the Theodore Channel, the Alabama-Coosa waterway and the Bon Secour National Wildlife Refuge; he aided in the improvement of the Dauphin Island Bridge, the Cochrane Bridge and the I-65 Bridge over the Mobile River Delta; the new Federal Building in Mobile was also his handiwork.

Of greatest bearings on these proceedings is Congressman Edwards recognition of the need for airports and the positive impact they can have on a community. The First District is full of airports which Jack Edwards helped improve. A good example of this is the new air terminal in Mobile. This new facility greatly improves a visitor's first impression of Mobile and undoubtedly helps attract new business to the area. Another example of his hard labor and the fruits of the labor has been the new airport in Gulf Shores, Alabama. He was instrumental in moving the municipal airport from an old Navy base to a beautuful new facility. The completion of the new field helped set off a land rush in that lovely resort community, the likes of which had not been seen since the opening of the Oklahoma Territory. In recognition of the Congressman's contributions, the grateful community has named the airport "Jack Edwards Field."

Mr. Chairman, I believe the best way to discover the truth about someone is to listen to the people who know him best. And praise for Jack Edwards is easy to find in both Alabama and Washington. One quickly discovers the feelings of the people in Alabama by noting the voters' support for him during his service in Congress. By averaging the percentage of votes he received, you come up with the unbelievable statistic of 67%. That clearly indicates the respect and admiration the people of Alabama have for him.

Praise for Jack Edwards is easy to find in Washington as well. His thoroughness is in Defense Appropriations Subcommittee was so obvious that others considered him the Sam Nunn of the House of Representatives. When Congressman Edwards first considered retirement from the House in 1982, his colleagues in the House and Senate raised such a hue and cry that he was forced to stay in the House for another term.

Mr. Chairman, although Jack Edwards no longer holds public office, his dedication to the public has not diminished. Despite the demands of his law practice with the Mobile firm of Hand, Arendall, Bedsole, Greaves and Johnston, he remains very active in community affairs. Since leaving Congress just three years ago, he has served the public in numerous capacities. he has served as the chairman of the Board of both the Mobile Area Chamber of Commerce and the Mobile Bay Area Partnership for Youth. he is also a member of the South Baldwin County Chamber of Commerce, the USO World Board of Governors, and the Providence Hospital Board of Advisors. His expertise in business is also exemplified by his membership on the Alabama Governor's International Advisory Commission, his position as a Director of the Altus Federal Savings Bank and as a Trustee of the Aerospace Corporation. Mr. Edwards has also been selected to be in the Alabama Academy of Honor.

Mr. Chairman, these offices and honors demonstrate that Jack Edwards possesses a keen business sense coupled with complete integrity. He has every quality necessary to be a member of the Airport Authority.

I hope the respect I have for Jack Edwards is clear from my remarks. I admire him as a human being and as a public servant. It is with pleasure and pride that I support his nomination to the Metropolitan Washington Airport Authority and I urge the Senate to confirm his nomination.

Thank you, Mr. Chairman.

Senator Ford. Thank you, Senator.

Mr. Edwards, do you have an opening statement?

[The biographical sketch follows:]

A. BIOGRAPHICAL DATA

1. Name: Edwards (Last) William (First) Jackson (Other)

Address: P. O. Box 380
Point Clear, AL 36564
(Current residence)

3000 First National Bank Bldg.
P. O. Box 123
Mobile, AL 36601
(Business)

2. Position to which nominated: Board of Metropolitan Washington Airports Authority

Date of nomination: April 2, 1987

3. Date of birth: September (month) 20, (day) 1928 (year)

Place of birth: Birmingham, AL

4. Marital status: Married

Full name of Spouse: Jolane Vander Sys Edwards

5. Names and ages of children: Susan Lane Weavil (Mrs. Richard Weavil) Age 32

Richard Arnold Edwards Age 28

6. Education:

Institution	Dates attended	Degrees received	Dates of degrees
University of Alabama	1948-50; 51-52	BS	1952
University of Alabama	1952-54	JD	1954

7. Employment record: List all positions held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

From	To	Name of employer	Address	Type of work
1985	Current	Hand, Arendall, Bedsole, Greaves & Johnston	P.O. Box 123 Mobile, AL 36601	Lawyer
1965	1985	U.S. House of Representatives, Washington,DC		Congressman
1958	1965	Gulf Mobile & Ohio RR	Mobile, AL	Lawyer
1956	1958	Hamilton, Denniston, Butler and Riddick	Mobile, AL	Lawyer
1954	1956	Private practice	Mobile, AL	Lawyer

8. Government experience: List any experience in or direct association with Federal, State, or local governments including any advisory, consultative, honorary or other part-time service or positions.

1965 - 1985 U.S. House of Representatives representing 1st Congressional District of Alabama

1987 Governors International Advisory Committee (Governor Hunt of Alabama)

1987 The Attorney General's Drug Task Force (Attorney General Siegelman of Alabama)

9. Political affiliations activities: List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last 10 years.

1965-85 U.S. House of Reps (Secretary & Vice Chm of House Republicans, 1972-85)

1984 Ala. State Chairman - Reagan-Bush Campaign

1984 Active participation in election of my successor, Congressman Sonny Callahan (continuing support)

1986 Southwest Ala. Chm. for re-election of Sen. Jeremiah Denton

Long time annual contributor to Alabama Republican Party.

STATEMENT OF JACK EDWARDS

Mr. **Edwards**. I do not have an opening statement.

Senator **Ford**. Any statement you would like to make before I ask you a few questions?

Mr. **Edwards**. I would just like to thank Senator Heflin before he runs out the door for appearing here this morning in support of my nomination. Now you may go.

Senator, I do not have a prepared statement. But I think my general background in the Congress, particularly in the area of about 14 years on the Transportation subcommittee on Appropriations dealing directly with airport problems and finance, along with my other background, pretty well qualifies me to do the job that is laid out.

I am prepared to answer any questions that the Chairman may have.

Senator **Ford**. Mr. Edwards, I have a statement from you as it relates to your biographical data that is required for completion by all Presidential nominees. I don't know of anything that jeopardizes your being a nominee as it relates to your background or any question of conflict of interest. We'll proceed on that basis.

We do have a copy of the letter regarding any possible conflict of interest from the Department of Transportation. It says, "I find that his receipt of income from these sources raises no conflict of interest issues and is no impediment to his becoming, if confirmed, a member of the Board." So we do have that letter now. So that takes care of that.

Let me ask you just a few questions. They will be routine.

Mr. Edwards, as a member of the Board of Directors for the two Washington airports, you will be responsible for overseeing their operations, and in particular their development. National, as you know, is crowded. Dulles is beginning to be one of the most active airports in the country. So what do you see as the top priorities for the new Airport Authority?

Mr. **Edwards**. Senator, there are a number of things that are now in the works that fall into that category. I suppose the most immediate need and the one that is furtherest advanced at this point is the expansion of the main terminal at Dulles, the commencement of construction of the midfield terminal at Dulles, and the international arrival facility which needs greatly to be expanded.

The traffic flow at National is extremely important as far as a resolution is concerned. It's chaotic. The terminal facilities at National in my judgment need a great improvement to tie into the subway system as well as into the various sub-terminals at National.

National is a strip airport, if you will, as far as hangars and terminal buildings are concerned. You simply can't grow very much, so you have to find ways to bring order out of a rather chaotic situation that we find at National. We need to expand parking at both airports. We need land for additional runways at Dulles.

We need, hopefully if we can design a terminal facility properly, security checkpoints at National so that you can have a more central check-in area. Then ultimately I think we are going to see the need for a rapid rail transit operation tying into Metro going out to Dulles.

Dulles is the fastest growing airport in the country right now. If I may summarize, I would like to say that Dulles is a growing airport. Therefore, the needs at Dulles deal with that growth. The needs at National are different in that National probably has grown about as much as it's going to grow. So the needs there are in the effort of trying to bring a more orderly airport operation to an already full airport.

Senator FORD. In your statement you indicate the need for substantial capital improvements at both airports. I believe you have stated that they should be funded through tax exempt bonds. Let me ask you this. How do you see these bonds being paid for? Do you think any one group should bear a greater burden than any other covering these costs, if any? For example, who should pay more—airline passengers, general aviation, airport concessionaires?

Mr. EDWARDS. Senator, I don't want to duck the question, but we have just employed—the Board has—financial advisors to start making recommendations in that regard. The revenues coming into the airport this year are judged to be about $93 million. Much of the bond cost would come out of revenues, in my judgment.

I think you will see—and I don't have a formula for this—but I think you will see a realigning somewhat of airport user fees by airlines. Concessions are growing tremendously and they are producing a lot more revenues, particularly at Dulles.

So I think you'll see that kind of growth in revenue without necessarily having to raise those fees, increase those fees, in order to produce the revenue. Dulles grew about 78 percent last year alone in traffic. It now has more planes in and out than National. That kind of growth is producing not only revenues but of course these needs that we have. I think that that by and large would be the way we would finance the bonds.

Senator FORD. There has been, as we would say in Omaha, a great deal of discussion about closing National Airport and diverting the airline traffic to other airports. Do you have any thoughts in mind as to whether you would support closing, or for that matter in any way restricting the flights at National?

Mr. EDWARDS. I think I would not favor closing National first. I think that the numbers of flights in a sense are self-restricting simply because of the size of the airport. There is very little that the Airport Authority could do to increase the numbers of flights. I would think there would be no reduction, other than what natural traffic might cause to happen.

I believe that the Airport Authority understands the clear need not only to maintain National but to make it a more acceptable airport that can serve the travelling public better. That would be the context that the Authority, in my judgment, would be looking at National.

Senator FORD. We are beginning to find that in any discussion about airports, noise becomes a factor. It's an ingredient in the mix now. It has been a major issue, as you probably have experienced, in Virginia and Maryland and here in the District.

Should there be restrictions beyond those now in place on aircraft operations at National or Dulles to reduce our so-called noise pollution problem?

Mr. EDWARDS. I certainly think that the Airport Authority has to be cognizant of the noise problem. Whether that would call for reduction in flights I would question. I think there are other ways to deal with that.

For example, in the fiscal 1988 budget that was just adopted last week by the Authority, there is an item for $500,000 to improve the noise monitoring system to make sure that the Authority has a fix on what the noise situation in fact is. The Authority has also adopted a resolution to work with the Councils of Government—generally called COG—on the noise problem. The Authority has encouraged all those people who have concerns about noise to try to work through COG, and then COG in turn will work with the Authority.

But the Authority has made it very clear that in any case anyone who has got concerns or notions about noise should feel free to come directly to the Authority with those kinds of concerns. I am convinced that the Authority—and I share this view—that the Authority is extremely concerned about the noise problem, and that it will deal with it head on. But I believe that the Authority would try very hard not to have the answer show up in the form of reduced flights. Rather to make those flights that use the airports less noisy and more accommodating to the public.

Senator FORD. Well, talking about not reducing flights, we're on the verge of trying to put together a new reauthorization bill, which know you are very familiar with, as it relates to the Airport Improvement Program. We hear a lot about the safety of the airways, the near misses. There have been near misses.

We're struggling very hard to try to get back to that trust fund so we can begin to spend the money that you paid when you flew up here—the eight percent tax on that ticket. That goes into the trust fund to use for necessary capital developments in our airport and airway system.

One of the reasons I believe that the two airports need substantial amounts of money for development is that until just recently, until the law was changed, they were not eligible for FAA Airport Improvement Program grants. That brings me to this.

Since you are a member of the present Administration's party, will you attempt to suggest to the Secretary of Transportation that the Washington airports receive as much of the discretionary funds as possible?

Mr. EDWARDS. I certainly will. I think that is one of the sources of funding that these two airports should look to as any other airport authority has a right to do. I would encourage the Department to be as generous as possible with these funds.

I have frankly taken the position when I was on the Appropriations Committee that those funds ought to be disbursed with more dispatch than they have been in the past. So what we're seeing today is not a new phenomenon, but the problem gets worse. The fact that the computer shut down—this incidentally is not our airport problem but an FAA problem.

Senator FORD. That is correct.

Mr. **Edwards**. But the fact that the computer shut down just yesterday is indicative of the fact that those computers are old and need replacing. They're very expensive. I would hope that the administration would in fact look to dealing with that kind of problem at an early date.

Senator **Ford**. Let me give you just the final question for the day.

One method of expanding airport capacity is through peak hour pricing. It has been a proposal that has been put forward. Have you given any thought to the use of such a procedure to allocate scarce capacity at National or at Dulles?

Mr. **Edwards**. I don't think I can give you an intelligent answer to that question. I have not thought about that or studied it.

Senator **Ford**. But it's just like peak hour: if you go to work at 8:00 and you leave at 5:00, that's a crowded time. If you want to leave at 8:00, you pay a little higher price for that, but you do get away at 8:00 and you do get to leave at 5:00. But you pay a premium for that.

That pricing may cause some people to come in the night before or delay and start to come at 9:00 or 9:30. It seems to be a way where they wouldn't lose money but still would reduce the number of flights that seem to be taking off at one time.

I land at a hub on the way home, and there are five flights that leave the same time out of the same gate. You know you just can't do that.

Mr. **Edwards**. You're looking at somebody who for years spent about 100 times a year in the Atlanta airport. I understand exactly what the Senator is talking about.

What you're suggesting gets a little bit back into re-regulation. I suppose that's a philosophical question that will continue to be debated for some time. I think, however, if that proposal has merit it is certainly worthy of——

Senator **Ford**. It's something to consider I think. I may have pitched it out to see if you have a fix on it. It's something that you can consider.

We have a lot of problems that will not be solved overnight. You're going to be involved in each of them because you have two airports that need a lot of work and funding, etc.

We're hoping that we can get this airport improvement authorization package to the Floor—we're having a little bit of a hard time getting it up because of objections. They want to put everything on it because it's airline bashing time. I'm trying to keep it as clean as possible because there is a 60 percent increase in funding for airport capacity expansion over what's been available the last few years. That's very important.

So we're hoping that that will be out and that we get into the NAS plan, which is very important to you. We're hoping that we accelerate the installation of the host computers. The third one was installed last week in Houston. We have it in three en route centers now. The FAA hopes to have it in all 20 centers by the end of the year. That helps some of the problem that developed yesterday out at Leesburg.

But nevertheless, we still have a long way to go. I hope that with this funding, people don't think that on October 2nd, the second day of the new fiscal year, that everything is going to be lovely. You know and I know that we can't get to that.

Mr. Edwards, I'm very pleased by your nomination by the President. I look forward to having a rapid approval of your nomination. I might say I look forward to working with you because of your governmental experience and your interest, particularly your knowledge of the appropriations process here in Congress. I think you're a valuable member of this commission, and hopefully we can work together to do those sorts of things that you and I know should be done and be careful that when we look back over our shoulders there are very few loose ends left.

I don't think we have any other Senator who wishes to question you this morning. I don't have any statements, but if there are any statements we'll leave the hearing open for the balance of the day in order for those who would be so inclined to put in a favorable statement as it relates to you.

Mr. EDWARDS. Senator, may I thank you and encourage the Senate to send us the nominations for the Board of Review. The House has done so and we very much need to have the Senate nominees.

Senator FORD. We're trying to put a little grease on the wheel over here, but it seems to be dry and it's not turning very fast.

Mr. EDWARDS. As an old House member, we would really hate for the House to control this.

Senator FORD. Mr. Edwards, it's a delight to see you today. As I say, I look forward to working with you.

Mr. EDWARDS. Thank you very much.

Senator FORD. This hearing is adjourned.

[The questions and answers follow:]

PREHEARING QUESTIONS OF THE MAJORITY AND THE ANSWERS OF MR. EDWARDS

QUALIFICATIONS AND PHILOSOPHY

Question 1. Mr. Edwards, you have served 10 terms in the House of Representatives, in addition to your time as a practicing attorney. How does your background make you qualified to serve on the Metropoolitan Washington Airports Board of Directors?

Answer. I served 16 years on the House Appropriations Committee and about 14 years on the Transportation Subcommittee of that committee. I took an active interest in the work of the subcommittee.

During my 20 years in Congress, I used Washington National and/or Dulles about 100 times each year. Since retiring from Congress, I still fly into and out of Washington frequently.

Since retiring from Congress, I have been serving on the Board of Directors of the Aerospace Corporation and Altus Bank, a Federal Savings Bank.

Consequently, I believe my transportation background in Congress, my frequent use of the airports, and my experience serving on active Boards of Directors suggest that I am reasonably qualified.

Question 2. Being the sole Board Member without an affiliation with either Virginia, Maryland, or the District of Columbia, what interests will you represent?

Answer. I believe that a Board Member should not attempt to "represent" a particular interest. However, because of my extensive use of the airports, I will probably identify closely with the traveling public, particularly travelers to and from the Nation's Capital. As the Presidental appointee, I expect to emphasize the national perspective.

Question 3. Will you be able to contribute adequate time to this position given your other responsibilities?

Answer. My responsibilities as an attorney require that I be in Washington frequently. I considered the time factor before agreeing to serve and I intend to be an active member. Congress concluded that Authority Board members should receive no compensation for serving. Anyone from Mobile, Alabama who is willing to serve on that basis must be willing to contribute adequate time. I'm committeed to six years, and I intend to participate fully in both Board and Committee meetings.

Question 4. What is your general philosophy about developing and managing airports?

Answer. I believe, first, that a Board should set policy and allow management to operate within that policy. Secondly, I believe the key to airport development management is long-range planning. The Board should have an ongoing planning program, which is alreadys looking many years ahead.

Question 5. In your opinion, now that the long-term lease for the airports has been effectuated, what is the appropriate role for Congress and the Department of Transportation with respect to these facilities.

Answer. Congress has provided for a Board of Review and the Authority is prepared to work with that Board. The House members have been selected and hopefully Senate nominations will be sent to the Board at an early date. Once the Board of Review is in place, I would hope that the Congress will allow the law to function as written. Many decisions will be made over the next few years and in many judgement it is essential that the Authority be allowed to operate as any other airport authority subject to the terms of the legislation.

The Department of Transportation has considerable expertise in the field of airports and aviation and we should draw on that knowledge as would any other airport authority. As I read the Virginia and D.C. law creating the Authority, we are not a federal agency. Rather, as far as the Department of Transportation is concerned, we are just like any other major airport authority, except for the long-term lease.

AIRPORT ISSUES

Question 6. As a frequent user of both National and Dules International Airports, what do you see as the priorities at these facilities?

Answer.

(a) Expanded main terminal building, international arrival facility, and midfield terminals at Dulles;

(b) Road traffic flow at National;

(c) Terminal facilities at National which make better use of the limited space and provide better access to the subway system;

(d) Expanded parking at both airports;

(e) Land for additional runways at Dulles;

(f) Central security check points at National; and

(g) Rapid rail transit to Dulles.

Question 7. Like other airports, noise is a major concern to the people in the Washington region. Do you believe the current noise abatement rules are adequate, or should they be changed in any way?

Answer. I am not an expert on "current noise abatement rules," but I do know from my attendance at the Authority Board meetings that it is a matter of great concern. The Board has adopted a position that it will basically work with the Council of Governments (COG) in dealing with noise problems and has urged all who are concerned about noise to work with COG as the clearinghouse. However, the Board, by this action, specifically stated that it was not foreclosing the right of any group to come directly to the Authority with a noise matter. I support this position.

Question 8. Recent congressional hearings detailed deficiencies in security at the two Washington airports. How can security be improved at these two facilities?

Answer. I am not familiar with the deficiencies in security detailed in congressional hearings, but it is my view that in the short run (before major improvements) more security personnel are needed and I believe the general manager is seeing to this need at this time.

As the new terminals and facilities are planned and constructed, all appropriate security requirements should be built in. Security checkpoints are a primary consideration in the new midfield terminal plans at Dulles and should be at National as well when we have a more orderly terminal situation.

Question 9. As a frequent user of both airports, you know accessibility to and from National and Dulles Airports is a major problem. How can such access be improved?

Answer.

DULLES

Extension of the Dulles Access Road has given greater access to Dulles while at the same time generating greater use. With the limits on use at Washington National, it may be appropriate to consider a rapid rail transit system tying into the Metro system at the West Falls Church station to give better access to Dulles.

More remote parking lots with regular, rapid bus service are also planned and eventually, as Dulles traffic continues to grow, a south entrance to the field is a possibility.

NATIONAL

The Metro system is too far from the terminal buildings, so many people don't use it. Planning for National would suggest a central terminal building with people movers or covered walkways tying into the Metro system and feeding into all the subterminals. The entire auto traffic pattern must be improved. The current system is in chaos and should receive early attention.

Question 10. According to the Secretary of Transportation, the two airports are in need of approximately $700 million in capital development. What are your opinions about how this development should be funded? Are there specific projects that you think should be given priority consideration? If so, what are they?

Answer. Capital improvements should probably be funded like those at any other air carrier airport: through revenue bond issues, and other types of financing that will be paid out of airport fees and charges, as well as airport improvement grants from the FAA. Specific projects should probably include the following:

(a) Dulles terminal expansion is probably the top priority. Plans are nearing completion and should be ready soon;

(b) Acquisition of some 900 acres for additional runways at Dulles;

(c) Rapid rail to Dulles, perhaps with the Authority contributing the right-of-way and a private company building the system with private investors;

(d) New central terminal facilities at National tying into Metro, possibly with moving sidewalks to sub-terminals; and

(e) New auto traffic system and improved parking at National.

Dulles is the fastest growing commercial airport in the Nation and has the most immediate need for capital improvement to handle the rapid growth.

National has reached a point when there will be little additional growth, but there is a great need to make major improvements to cope with the current traffic volume.

The needs at each airport are different, but capital improvement is essential at both.

[Whereupon, at 10:00 a.m., the nomination hearing was concluded.]

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